

EXHIBIT 4

Lucinda Allen
December 03, 2019

1

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF NEW YORK

ORIGINAL

3 _____
4 DENISE PAYNE,

5 Plaintiff,

6 INDEX NO.: 18-cv-1442

7 vs.

8 _____
9 CORNELL UNIVERSITY,

10 Defendant.

11 _____
12
13 This is the Examination Before Trial of
14 LUCINDA ALLEN
15 held on the 3rd day of December, 2019,
16 held at Cornell University Counsel's Office,
17 235 Garden Avenue, Ithaca, New York.

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20
21 REPORTED BY: CAITLYN A. SHAYLOR
22 Shorthand Reporter
23
24
25

Lucinda Allen
December 03, 2019

2

1 A P P E A R A N C E S

2
3 NESENOFF & MILTENBERG, LLP
4 363 Seventh Avenue, 5th Floor
5 New York, New York 10001
6 Attorneys for Plaintiff
7 BY: GABRIELLE M. VINCI, ESQUIRE

8
9 OFFICE OF UNIVERSITY COUNSEL
10 235 Gardne Avenue, CCC Building
11 Ithaca, New York 14853
12 Attorneys for Defendant
13 BY: ADAM G. PENCE, ESQUIRE

14
15 S T I P U L A T I O N S
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19 It is stipulated by and between the
20 parties hereto that the filing of the
21 deposition is waived; that the deposition
22 may be signed before any Notary Public;
23 and that all objections except as to the
24 form of the question are reserved to the
25 time of the trial.

Lucinda Allen
December 03, 2019

3

1 L U C I N D A A L L E N

2 having been called as a witness,

3 having been duly sworn, was examined

4 and testified as follows:

5 EXAMINATION BY

6 MS. VINCI:

7 Q Good afternoon, Ms. Allen. We met a
8 couple minutes ago off the record. My name is
9 Gabrielle Vinci. I represent Denise Payne in a
10 lawsuit she has brought against Cornell
11 University. You're here today to answer some
12 questions regarding the allegations in that
13 lawsuit, and to testify as to what information
14 you know or can recall regarding the
15 circumstances surrounding Ms. Payne's lawsuit.

16 Have you ever been deposed before?

17 A Yes.

18 Q Okay. When was the last time you were
19 deposed?

20 A I don't recall the date.

21 Q Do you recall was it more than a year
22 ago?

23 A More than a year ago.

24 Q Was that an action that you were a party
25 to?

Lucinda Allen
December 03, 2019

4

1 A Yes.

2 Q Okay. Were you the plaintiff or the
3 defendant in that case?

4 A Plaintiff.

5 Q Okay. And what type of suit was that?

6 A It was a discrimination suit.

7 Q Okay. And who were you suing in that
8 lawsuit?

9 A I know the acronym, ADIC, advanced
10 digital, I think it was information corporation.

11 Q And when you say a discrimination, was it
12 discrimination based on something in particular?

13 A It was sexual discrimination.

14 Q Okay. Is that lawsuit ongoing?

15 A No.

16 Q At the time -- strike that. Did that
17 lawsuit go to trial?

18 A No.

19 Q Other than the deposition you had for
20 your suit against ADIC, have you ever been
21 deposed?

22 A No.

23 Q Okay. So similar to what I'm sure were
24 the ground rules during that deposition, I'm just
25 going to go over some guidelines for today, just

Lucinda Allen
December 03, 2019

5

1 to help make sure that it goes smoothly. The
2 first is, as you can see we have a court reporter
3 here. She's taking down all the questions and
4 answers, so I just ask that all of your responses
5 be verbal.

6 A Uh-huh.

7 Q And if you can just articulate your
8 response, so something like an uh-huh doesn't
9 translate very well on the transcript, and we
10 just want to make sure we have all of your
11 responses clearly and accurately. In addition, I
12 would just ask that you allow me to finish my
13 question before you go on and answer it, and I
14 will also allow you to finish your answer before
15 I go on to my next question just so we have a
16 clear transcript. It's difficult for the
17 reporter to take two people speaking at once; is
18 that okay?

19 A Okay.

20 Q If at any point in time you don't
21 understand a question that I've asked, or if
22 you'd like me to repeat it, please let me know.
23 If you answer the question as it's posed to you,
24 I'm going to assume that you understood it; is
25 that okay?

Lucinda Allen
December 03, 2019

6

1 A Yes.

2 Q Okay. If at any time you need a break
3 for whatever reason, I'm happy to take as many
4 breaks as you need. I don't anticipate that we
5 will be all day today, but that being said, I'm
6 happy to break at any time. I just ask that if
7 there's a question pending, you answer that
8 question and then we'll take that break; is that
9 okay?

10 A Yes.

11 Q Okay. These next questions are not meant
12 at all to -- to offend you, they're just to see
13 your fitness to testify today. Are you on any
14 medications that would inhibit your ability to
15 understand my questions today?

16 A No.

17 Q Are you on medications that would inhibit
18 your ability to truthfully answer my questions
19 today?

20 A No.

21 Q What, if anything, did you do to prepare
22 for today's deposition?

23 A I met with Adam and Valerie probably a
24 month ago.

25 Q Okay. And did you meet with Adam and

Lucinda Allen
December 03, 2019

7

1 Valerie together or in separate meetings?

2 A Together.

3 Q Was anybody else in that meeting with
4 you?

5 A No.

6 Q How long was that meeting?

7 A I don't recall entirely, but I would say
8 two to three hours.

9 Q Since that meeting about a month ago,
10 until today, have you done anything else to
11 prepare for your deposition?

12 A No.

13 Q Did you review any documents?

14 A No.

15 Q Okay. Are you aware that Ms. Payne has
16 been deposed in this case?

17 A I don't recall being told that.

18 Q Okay.

19 A Okay.

20 Q So have you -- is it fair to say that you
21 have not seen the transcript of her deposition in
22 this case?

23 A That's fair to say.

24 Q Okay. Have you ever seen the complaint
25 that was filed on Ms. Payne's behalf in this

Lucinda Allen
December 03, 2019

8

1 case?

2 A Yes.

3 Q When was the last time you reviewed --

4 MS. VINCI: Sorry.

5 MR. PENCE: Just wait for her to

6 finish the question.

7 A Okay.

8 Q It goes against how you talk in like
9 normal conversation, but it's for the sake of our
10 court reporter today. When was the last time you
11 reviewed Ms. Payne's complaint?

12 A A month ago when I met with Adam and
13 Valerie.

14 Q Did you review any other -- withdraw
15 that. I'm going to preface this by saying that I
16 don't want you to tell me anything about what you
17 discussed during that meeting, that is privileged
18 and I'm not asking for any of that information.
19 During the meeting with Adam and Valerie did you
20 review any other documents?

21 A Yes.

22 Q What other documents did you review?

23 A A couple of e-mails --

24 Q Okay.

25 A -- I believe, and I think that was all.

Lucinda Allen
December 03, 2019

9

1 Q Okay. Can you recall what any of the
2 e-mails you reviewed were about, what the
3 substance of them was?

4 A Yes, there was one that was under my name
5 and it was an e-mail that I had inadvertently
6 sent to Denise, to Ms. Payne, as opposed to
7 another party.

8 Q Who did you intend to send that e-mail
9 to, if you can recall?

10 A It was intended for Amanda Shaw.

11 Q And what were you saying in that e-mail
12 that was meant to go to Amanda Shaw?

13 A The basis of the e-mail was that I did
14 not have confidence in Denise's skills or
15 abilities to handle a certain job task.

16 Q And we'll talk more about that later in
17 the day. Can you recall the substance of any
18 other e-mails that you reviewed when you met with
19 counsel about a month ago?

20 A I don't recall any specifics.

21 Q What's your highest level of education?

22 A A Master's of Science.

23 Q And where did you earn that degree from?

24 A Rochester Institute of Technology.

25 Q Do you recall the year that you earned

Lucinda Allen
December 03, 2019

10

1 your Master's?

2 A 2010 I think.

3 Q And are you currently employed?

4 A Yes.

5 Q Where are you currently employed?

6 A Cornell University.

7 Q What is your current position at Cornell?

8 A I'm Director of Administration at
Chemical and Biomolecular Engineering in the
9 College of Engineering.

10 Q How long have you been in that role?

11 A Two years.

12 Q How long have you worked for Cornell
University?

13 A Nearly 13 years, since March of 2006.

14 Q And to the best of your ability can you,
from start to your current role now can you tell
me the job positions you've held throughout your
15 time at Cornell University?

16 A All of the positions at Cornell?

17 Q Let's limit it to this. The director
role that you're in now, that's a supervisory
18 role, correct?

19 A Correct.

20 Q For how long have you held a supervisory

Lucinda Allen
December 03, 2019

11

1 role at Cornell?

2 A At Cornell?

3 Q Yes.

4 A I -- I don't recall the specific year of
5 the supervisory, the start of supervisory, but I
6 -- I can't give you a specific --

7 Q Okay.

8 A -- for sure. It's probably, I want to
9 say close to ten years.

10 Q Okay. So to the best of your ability can
11 you lay out for me all of the supervisory roles
12 that you've held at Cornell?

13 A Sure. So prior to this position I was in
14 the School of Hotel Administration, so most all
15 of the roles are there. I supervised all the
16 teaching chefs, I supervised all the admins. Let
17 me correct that. I supervised managers that
18 supervised them. I had at one point in time two
19 individual contributors that reported directly to
20 me, not through a manager. I supervised all the
21 center and institute employees. So the positions
22 at the School of Hotel Administration went
23 anywhere from two reports to a maximum, I think,
24 I believe, at one point in time I had close to
25 ten direct reports, managers, or individual

Lucinda Allen
December 03, 2019

12

1 contributors who had worked -- who had employees
2 under them.

3 Q When you supervised the managers who also
4 have employees under them, do you have any
5 day-to-day oversight over the employees? Not the
6 managers, but the employees under them.

7 A No.

8 Q Okay. Are you -- but you're still
9 considered higher in the chain of command than
10 them?

11 A Yes.

12 Q You're familiar with Denise Payne?

13 A Yes.

14 Q When did you first meet Ms. Payne?

15 A I don't recall the specific date. I
16 don't -- yeah, I don't recall the specific date.

17 Q Okay. Do you recall the year that you
18 met her?

19 A That's a -- it's a while back. It was
20 when the College of Business was formed.

21 Q Okay. When was the College of Business
22 formed, if you can recall?

23 A Well, it was announced and formed between
24 the fall of 2015 and spring of 2016.

25 Q And under what circumstances did you meet

Lucinda Allen
December 03, 2019

13

1 Ms. Payne?

2 A It was an exploratory discussion. HR had
3 asked that I -- I meet with her.

4 Q And an exploratory discussion about what?

5 A A new department that was being formed.

6 Q What was the department?

7 A Business analytics within the college.

8 Q Was that intended at that time -- to your
9 knowledge, was that intended to be a department
10 that you would have oversight of?

11 A Yes.

12 MR. PENCE: Object to the form.

13 Q Do you know why human resources asked you
14 to meet and speak with Ms. Payne about that
15 department?

16 A The thought was that she might play a
17 potential role in that department.

18 Q Prior to when you first met her regarding
19 the business analytics department, had you ever
20 heard of Ms. Payne before?

21 A Only through HR.

22 Q Okay. So let me rephrase that. Prior to
23 human resources reaching out to you to meet with
24 Ms. Payne, had you ever heard about her before?

25 A No.

Lucinda Allen
December 03, 2019

14

1 Q Okay. Where did you meet with Ms. Payne?

2 A In my office.

3 Q If I -- strike that. When you met with
4 Ms. Payne, what did you discuss?

5 A It was exploratory, as I said. We talked
6 that this new group might be formed.

7 Q Did you discuss at all at that time any
8 specific position that she might fill?

9 A No.

10 Q Okay.

11 A Not that I recall.

12 Q Did Ms. Payne eventually join the
13 business analytics department?

14 A Yes.

15 Q Okay. Do you recall when that was?

16 A I don't recall the specific date.

17 Q If you can give just a general time
18 frame.

19 A It was in 2016, I know that, so --

20 Q Okay. Do you recall interviewing Ms.
21 Payne for the data analyst II position?

22 A No, I don't recall that.

23 Q Was there a data analyst II position
24 within the business analytics department?

25 A No, the employees that came to the

Lucinda Allen
December 03, 2019

15

1 department moved in, to the best of my knowledge.

2 I think everybody moved in at their band level
3 that they were. They came in at their job level
4 and everybody moved in. We didn't know what the
5 jobs were going to be.

6 Q Okay. Did you ever interview Ms. Payne
7 for any job in the business analytics department?

8 A Not that I recall. I don't recall a
9 formal interview ever.

10 Q Do you recall an informal interview?

11 A This exploratory discussion.

12 Q How long did that discussion last?

13 A I don't recall.

14 Q Was it more than ten minutes?

15 A I really don't recall.

16 Q Was there anybody else present for that
17 discussion besides yourself and Ms. Payne?

18 A No.

19 Q When you say that the employees came in
20 at the same band level --

21 A Uh-huh.

22 Q -- what do you mean by band level?

23 A There were several -- when the College of
24 Business formed, there were individuals
25 throughout the three colleges that were doing

Lucinda Allen
December 03, 2019

16

1 like task. They were at different levels within
2 the job family and the thought was to group them
3 together, bring them into a group, figure out
4 what things we were keeping and what things we
5 were letting go, and then actually look at what
6 residual -- what remained. Like normal
7 organizational change, look what was remaining
8 and create then position descriptions for those
9 jobs.

10 Q Are there -- is there a different -- is
11 there a salary differentiation between the band
12 levels?

13 A Yes.

14 Q Do you recall what band level Ms. Payne
15 was at when the business analytics department was
16 formed?

17 A No, I don't recall.

18 Q Did you speak -- strike that. Do you
19 recall when Ms. Payne joined the business
20 analytics department?

21 MR. PENCE: Objection, asked and
22 answered, but you may --

23 A Yeah, I thought I said -- I don't recall
24 exactly. I think it was in 2016.

25 Q Let me do it this way. It might be a

Lucinda Allen
December 03, 2019

17

1 little easier. I'm going to hand you what's been
2 previously marked as Exhibit 9. Just take your
3 time to review that and let me know when you have
4 had a chance to do so. Have you had a chance to
5 look at Exhibit 9?

6 A I have.

7 Q Have you ever seen this before?

8 A I don't recall, but normally I would get
9 a copy of all letters, so --

10 Q Okay. So this appears to be, and has
11 been previously identified, as an offer letter
12 sent to Ms. Payne on September 23rd, 2016 from
13 Kathryn Doxey; would you agree with that?

14 A Yes.

15 Q Okay. And Ms. Doxey starts that the
16 letter is being sent on behalf of Cindy Allen,
17 that's you, correct?

18 A Uh-huh, yes.

19 Q And it's offering -- it's offering Ms.
20 Payne a position of data analyst in the College
21 of Business, correct?

22 A Correct.

23 Q Okay. During the exploratory discussion
24 that you had with Ms. Payne did you specifically
25 talk about a data analyst role in the Cornell

Lucinda Allen
December 03, 2019

18

1 College of Business?

2 A No, not that I recall.

3 Q Did you discuss any specific position
4 with her?

5 A Not that I recall.

6 Q Did you discuss any terms of compensation
7 with her?

8 A Not that I recall.

9 Q Okay. Did you have any discussion with
10 Ms. Doxey regarding this offer -- this job offer
11 to Ms. Payne?

12 A Not that I recall. HR was quite frankly
13 handling most of that in the College of Business.
14 They would not have put an employee in my
15 department without me knowing.

16 Q When you say that HR was handling most of
17 that, would HR seek your approval before placing
18 an employee in your department or would they just
19 notify you that an employee was coming?

20 MR. PENCE: Object to form, but you
21 may answer.

A It -- they didn't seek approval, no.

23 O Okay.

A They did not seek approval.

25 Q Okay.

Lucinda Allen
December 03, 2019

19

1 A It would have been discussed that this
2 individual would be coming to my group.

3 Q Okay. Do you recall any discussion with
4 anyone from HR regarding Ms. Payne coming to your
5 group?

6 A Yes.

7 Q Okay. And who did you speak to about
8 that?

9 A Kathy Doxey.

10 Q Okay. Do you recall when that
11 conversation took place?

12 A No, I don't recall.

13 Q Okay. Can you recall what you and Ms.
14 Doxey discussed during that conversation?

15 A I don't recall.

16 Q Did you have any objection to Ms. Payne
17 starting at the department?

18 A No.

19 Q Prior to Ms. Payne beginning in the data
20 analyst role were you aware that she had been
21 diagnosed with cancer?

22 A Yes, she shared that with me.

23 Q When did she share that with you?

24 A In the exploratory meeting.

25 Q What did she tell you in that exploratory

Lucinda Allen
December 03, 2019

20

1 meeting about her cancer diagnosis?

2 A I don't know specifics, but she disclosed
3 and said that she would be going through
4 treatment.

5 Q And what, if anything, was your response
6 to that?

7 MR. PENCE: Object to form.

8 A I wished her all the best and told her
9 that what she needed to concentrate on was her
10 health.

11 Q Did you have any -- did you have any
12 apprehension about a -- an employee who you knew
13 would be undergoing cancer treatment starting at
14 the department?

15 MR. PENCE: Object to form, but to
16 the extent you understand the question, you
17 may answer.

18 A No.

19 Q Did you ever speak to Ms. Doxey -- strike
20 that. Prior to this offer letter did you ever
21 speak to Ms. Doxey about Ms. Payne's cancer
22 diagnosis and treatment?

23 A I don't recall.

24 Q Okay. All right. So the offer letter
25 states that in the, at least the beginning of Ms.

Lucinda Allen
December 03, 2019

21

1 Payne's employment as a data analyst her time
2 would be split until December 31st, 2016; do you
3 see that?

4 A Uh-huh.

5 Q Okay. And did she in fact split her time
6 to your knowledge?

7 A Yes.

8 Q Okay. Did she remain employed -- strike
9 that. There came a time, however, that Ms. Payne
10 went on a medical leave, correct?

11 A Yes.

12 Q Okay. Do you recall when that medical
13 leave was?

14 A I don't. I don't remember the dates.

15 Q Okay. Do you recall if, just generally,
16 if it was before or after she was supposed to
17 split her time?

18 A I don't recall.

19 Q Okay. I will represent to you that the
20 medical leave began in October of 2016.

21 A Okay.

22 Q During -- and went through the remainder
23 of 2016 into January of 2017. During the time
24 that Ms. Payne was out on medical leave, was
25 there anybody in place to cover the work that she

Lucinda Allen
December 03, 2019

22

1 was supposed to be doing for the College of
2 Business?

3 MR. PENCE: Object to form.

4 Counselor, you -- you can lay foundation
5 any way you want, but you just represented
6 a time period for leave that the witness
7 says she's not familiar with, so I'm not
8 entirely sure she can answer a question
9 based on something she said she didn't
10 recall. But to the extent the witness
11 understands the question and is comfortable
12 answering it, you may do so.

13 A Could you repeat the question, please?

14 Q Sure. During the time that Ms. Payne was
15 on medical leave, to your recollection, did
16 anybody cover the work that she was supposed to
17 be doing for the College of Business?

18 MR. PENCE: Same objection. You may
19 answer to the extent you can.

20 A So there's two things I would say: The
21 group was brand new, so we didn't really know
22 what we were doing entirely. To the extent that
23 things that she was going to be doing in business
24 analytics, there were people doing them, and I
25 don't know about at BSL.

Lucinda Allen
December 03, 2019

23

1 Q Okay. Focussing just on the business
2 analytics. When you say there were people doing
3 them, do you mean that there were people within
4 the group already that were doing those tasks?

5 A Ms. Payne was entirely new to the group,
6 she didn't have a lot of assigned tasks at that
7 point in time. We were still figuring out as an
8 organization what this group was going to be
9 doing. Other individuals who had moved into the
10 group were doing the things that they had
11 previously been doing in their college
12 assignments.

13 Q Okay.

14 MS. VINCI: I'm sorry, can we just
15 take a five minute break?

16 (OFF THE RECORD.)

17 Q Ms. Payne accepted this offer, correct,
18 for the data analyst role?

19 A I'm not certain.

20 Q Let me rephrase. Ms. Payne assumed the
21 data analyst role with the College of Business,
22 correct?

23 A Correct.

24 Q Okay. At any point in time while she was
25 serving in that role, did she discuss her

Lucinda Allen
December 03, 2019

24

1 compensation with you?

2 A No.

3 Q Okay. Do you know if she discussed her
4 compensation with anybody at Cornell?

5 A I don't know that for a fact.

6 Q Okay. When Ms. Payne started in the
7 business analytics department, who did she report
8 to directly?

9 A I don't recall entirely. I -- I believe
10 there was a period where it was a direct report
11 to me; however, that was quickly addressed
12 because I still had an organization of -- I was
13 actually doing two positions and I still had all
14 the employees -- it was a bandwidth issue and I
15 still had all the employees in the School of
16 Hotel Administration, plus I was doing project
17 work to support the Dean, and had business
18 analytics, so I had two appointments, and I --
19 she may have reported to me for a short period of
20 time, but I don't entirely recall.

21 Q Do you know a woman by the name of Tammy
22 Lindsay?

23 A Yes.

24 Q Who is Tammy Lindsay?

25 A Tammy was an employee in the business

Lucinda Allen
December 03, 2019

25

1 analytics, and she was a manager for me at that
2 group.

3 Q During the time that Ms. Payne was
4 employed as a data analyst in the business
5 analytics department, did she report to Tammy
6 Lindsay?

7 A Yes.

8 Q Do you know for how long Ms. Payne
9 reported to Ms. Lindsay?

10 A I don't recall specifics.

11 Q Okay. Other than the time where Ms.
12 Payne reported directly to you, were -- can you
13 recall any other times where she was not
14 reporting to Ms. Lindsay?

15 A No.

16 Q Okay. Do you know what a flexible work
17 agreement is?

18 A Yes.

19 Q What is your understanding of a flexible
20 work agreement?

21 A My understanding?

22 Q Yes.

23 A Well, it's according to Cornell policy,
24 and it can be flexible days or times, or working
25 remotely.

Lucinda Allen
December 03, 2019

26

1 Q Are you aware that Ms. Payne -- strike
2 that. When Ms. Payne returned from her medical
3 leave, did she enter into a flex work agreement
4 with Cornell?

5 A Yes, I believe so.

6 Q Okay. Do you recall when she entered
7 into that agreement?

8 A No, I don't recall the date.

9 Q Okay. Do you recall whether there was
10 more than one agreement that she entered into?

11 A I don't recall.

12 Q Okay. I'll show you a couple of
13 documents that were previously marked. Okay.
14 This has been previously marked as Exhibit 1.

15 MR. PENCE: We're just keeping the
16 same designation?

17 MS. VINCI: Yeah.

18 MR. PENCE: So this is --

19 MS. VINCI: Yeah, that's fine.

20 Q Have you ever seen this document before?

21 A I don't recall specifically seeing the
22 document.

23 Q So I'll represent to you that at Ms.
24 Payne's prior deposition where this exhibit was
25 identified, she identified that this was her

Lucinda Allen
December 03, 2019

27

1 flexible work agreement with Cornell dated
2 February 2nd, 2017; would you agree with that
3 description?

4 MR. PENCE: Object to form, but you
5 may answer.

6 A Well, I'd like to clarify.

7 Q Sure.

8 A Effective February 16th, but it has an
9 end date.

10 Q Yes. So this was effective February, I
11 believe it's 6th, 2017 until May 1st, 2012?

12 A Uh-huh.

13 Q And you don't recall ever having seen
14 this document before?

15 A Not seeing it. I don't recall seeing it.

16 Q Okay. Did you ever have any discussions
17 about this flexible work agreement with Ms.

18 Payne?

19 A No.

20 Q Okay. Did you ever have discussions
21 about -- with -- about this agreement with Ms.

22 Lindsay?

23 A Yes.

24 Q How many times did you discuss any work
25 agreement with Ms. Lindsay?

Lucinda Allen
December 03, 2019

28

1 A I don't recall that.

2 Q Okay.

3 A How many times you said?

4 Q Yes.

5 A Yeah, I don't recall that.

6 Q Okay. What was the substance of your
7 discussions with Ms. Lindsay regarding this work
8 agreement?

9 A Ms. Lindsay wanted to support Denise's
10 reentry into the organization and knew -- they
11 knew that there were going to be times where she
12 would have a follow-up doctor's appointment and
13 hence the report work -- remote work portion.

14 Q Did you and Ms. Lindsay discuss the --
15 the arrangement here allowing for the, it says
16 change to standard time, end time and remote
17 work?

18 A Where is that?

19 Q If you look about midway down the first
20 page it says arrangement, check all that apply?

21 A Oh, yeah.

22 Q And it's checked change to standard time,
23 end time and then also remote work, complete
24 pages two to three, do you see that?

25 A Uh-huh.

Lucinda Allen
December 03, 2019

29

1 Q Okay. Did you discuss with Ms. -- with
2 Ms. Lindsay that arrangement, that the agreement
3 would include a change to standard start and end
4 time and remote work?

5 A Not specifically to the boxes checked.
6 We talked about the ability to work remote, so we
7 didn't talk about an address. We took -- talked
8 about the ability to work remote and to work
9 around any follow-up doctor appointments she
10 might have, and we talked about prior
11 notification.

12 Q What did you discuss with Ms. Lindsay
13 about prior notification?

14 A Well, it's written -- it's actually
15 written in here (indicating) I believe. It's
16 Cornell policy.

17 MS. VINCI: Just for the record when
18 the witness says it's written here, she was
19 indicating to the second page of the
20 exhibit.

21 A Request to work overtime, second
22 paragraph.

23 Q Okay. Did you discuss with Ms. Lindsay,
24 with respect to prior notification, what specific
25 notification was needed prior to Ms. Payne

Lucinda Allen
December 03, 2019

30

1 needing to either work from home or change her
2 start or end time?

3 A No, I don't manage at that level.

4 Q Okay. Show -- I'll show you these two
5 together. Please take your time to review them.

6 Showing you what's been previously marked as
7 Exhibits 4 and 5. Again, just take your time to
8 review them. Let me know when you've had a
9 chance to do so.

10 MR. PENCE: Do you have -- oh, go
11 ahead. Thanks. Apologies, did we get on
12 the record what these are exhibit-wise?

13 MS. VINCI: Identify? No, I just
14 said --

15 MR. PENCE: 4 and 5, that's what I
16 mean.

17 MS. VINCI: Yes, yes, 4 and 5, yes.

18 MR. PENCE: I'm sorry.

19 A Okay.

20 Q Have you had a chance to review the
21 exhibits?

22 A I have.

23 Q Okay. Have you ever seen Exhibit 4
24 before, which I'll identify for the record as
25 another flex work agreement for Denise Payne with

Lucinda Allen
December 03, 2019

31

1 an effective date of May 1st, 2017 and a review
2 date of October 30th, 2017?

3 A I don't recall seeing this.

4 Q Okay. Have you ever seen Exhibit 5
5 before, which, again, for the record I'll
6 identify as another flex work arrangement
7 agreement for Denise Payne, the signature date of
8 October 28th, 2017, and if you turn to the last
9 page it says begin date May 1st, 2017, review
10 date 10/30/2017. Have you ever seen Exhibit 5
11 before?

12 A I don't recall seeing it. I don't recall
13 seeing these.

14 Q Okay. Did you ever have any discussion
15 with Ms. Payne regarding the renewal of her flex
16 agreements at Cornell?

17 A Not that I recall.

18 Q Did you ever have any discussions with
19 Ms. Lindsay about the renewal of Ms. Payne's flex
20 work agreements?

21 A Yes.

22 Q Okay. Do you recall how many times you
23 discussed the renewal of Ms. Payne's agreements
24 with Ms. Lindsay?

25 A No, I don't.

Lucinda Allen
December 03, 2019

32

1 Q Okay. Do you recall the substance of any
2 of the discussions you've had with Ms. Lindsay
3 regarding the renewal of Ms. Payne's work
4 agreements?

5 A I remember at the review date Denise had
6 rung the bell and was done with cancer
7 treatments, cancer chemo and we were going to put
8 more of a standard remote work flex agreement in
9 place, which is more when needed. And I think
10 this says as needed, you can't read it.

11 MR. PENCE: Okay. Could we clarify
12 which exhibit the witness is referring to?

13 A Number 4 is more of what I would think
14 not a special circumstance, but this I -- this
15 time frame is about, I believe, when she rang the
16 bell on her cancer treatments.

17 Q Okay.

18 A And was -- was back to work full time.

19 Q Okay. So -- so just to clarify for the
20 record, when you say at the time of the renewal
21 she had rang the bell or -- or finished her
22 cancer treatments.

23 A Uh-huh.

24 Q Are you talking about in May 2017? By
25 May 2017 when the second work agreement was being

Lucinda Allen
December 03, 2019

33

1 entered into she had finished her cancer
2 treatments, to your knowledge?

3 A I can't be definite about that, but I
4 think it was around that time frame.

5 Q Okay. Okay. And to clarify, are you
6 saying that based on that she entered into a
7 more, as you said, standard remote work
8 agreement?

9 MR. PENCE: Object to form, but you
10 may answer.

11 A Well, it would always be up for review
12 and this is for a non-exempt hourly employee.
13 Working remote as needed is not uncommon.

14 Q Okay. Was there anything about Ms.
15 Payne's initial flex work agreement, Exhibit 1,
16 that was uncommon?

17 MR. PENCE: Object to form, but you
18 may answer.

19 A I think in this -- she was still, I
20 believe -- I may be wrong. I believe she was
21 still undergoing some treatments and had some
22 doctor appointments and we were trying to be
23 supportive of that.

24 Q Okay.

25 A And accommodate.

Lucinda Allen
December 03, 2019

34

1 Q Okay. Do you know why, excuse me, in
2 Exhibit 4 and 5 under the arrangement section the
3 box for change to standard start and end time is
4 not checked?

5 A I didn't fill it out, I -- I don't know.

6 Q Do you know if that arrangement or that
7 accommodation to Ms. Payne was rescinded when she
8 renewed her flex work agreement?

9 MR. PENCE: Objection. We're talking
10 about several agreements at once now, so we
11 should just clarify, if you could, which
12 one you're asking about because there could
13 be a different answer. So you just grouped
14 them two together, could we do one at a
15 time?

16 MS. VINCI: Sure.

17 Q Do you know why when Ms. Payne entered
18 into the second flex agreement, which is Exhibit
19 4 --

20 A Uh-huh.

21 Q -- she -- part of it was no longer that
22 she changed -- she changed her standard start and
23 end time, that arrangement was not checked?

24 A I don't know specifically.

25 Q Okay. When Ms. Payne, if you know,

Lucinda Allen
December 03, 2019

35

1 renewed her -- strike that. From May 1st, 2017,
2 the date -- the effective date of Exhibit 4, the
3 second work agreement, to August 28th, 2017, the
4 signature date on Exhibit 5 the third work
5 agreement, do you know if Ms. Payne was still
6 allowed to have flexible start and end work
7 times?

8 A I don't know.

9 Q Okay. After August 28th, 2017, which was
10 the signature date on Exhibit 5, do you know if
11 Ms. Payne was still allowed to have flexible
12 start and end work times?

13 A Could you repeat that again?

14 Q Sure. After August 28th, 2017, which is
15 the signature date on Exhibit 5 --

16 A Right.

17 Q -- do you know if Ms. Payne was allowed
18 to have flexible start and end work times?

19 A I don't know specifically. It looks like
20 they're pretty clearly detailed.

21 Q Okay. Do you know why the change to
22 standard start and end time in Exhibit 4 was not
23 checked?

24 A No.

25 Q Do you know why --

Lucinda Allen
December 03, 2019

36

1 A Yeah, are you talking on Exhibit 4?

2 Q Exhibit 4.

3 A No, I don't.

4 Q Okay. Do you know why the change to
5 standard start and end time arrangement box on
6 Exhibit 5 was not checked?

7 A No.

8 Q Okay.

9 A I didn't fill these out.

10 Q Okay. Exhibit 4 at the top notes that
11 the effective date is May 1st, 2017 and the
12 review date is October 30th, 2017, correct?

13 A Say that again. Exhibit 4?

14 Q Exhibit 4, in the first page at the top
15 it notes that the effective date is May 1st, 2017
16 and the review date is October 30th, 2017,
17 correct?

18 A Uh-huh.

19 Q Do you know why Ms. Payne signed a new
20 flexible work agreement in August of 2017?

21 A I don't recall specifics.

22 Q Okay. I understand you've said that you
23 did not draft any of the work agreements.

24 A No.

25 Q Did you review them before they were

Lucinda Allen
December 03, 2019

37

1 signed?

2 A I don't recall.

3 Q Okay. Do you know who drafted Exhibit 1,
4 the first work agreement?

5 A I don't know, but I -- well, it's
6 conjecture.

7 Q Certainly don't want any -- any guessing,
8 so if you don't know, it's okay to say you don't
9 know.

10 A I don't know.

11 Q Do you know who drafted the Exhibit 4,
12 the second work flex agreement?

13 A No.

14 Q And what about Exhibit 5, do you know who
15 drafted that?

16 A No.

17 Q Okay. So I'm going to try to limit my
18 questions, and they might be somewhat repetitive
19 to time periods.

20 A Okay.

21 Q So the first time period I'll focus on is
22 between the first two flex agreements. So
23 between February -- just make it easy, February
24 of 2017 to May 2017 did Ms. Payne ever complain
25 to you about her ability to work with Ms. Lindsay

Lucinda Allen
December 03, 2019

38

1 under the flex agreement between February of 2017
2 and May of 2017?

3 A We're talking about Exhibit 1, that
4 agreement? I -- I don't recall that she did.

5 Q Okay. Are you aware of any issues that
6 arose between Ms. Lindsay and Ms. Payne in that
7 time period, so the February of 2017 to May of
8 2017?

9 MR. PENCE: Object to form, but to
10 the extent you understand the question, you
11 may answer.

12 A I believe there were concerns regarding
13 notification of hours she was working and when
14 she was working and getting, according to the
15 documentation here, pre-approved and running it
16 by the staff supervisor.

17 Q When you say there were concerns, did
18 somebody bring those concerns to your attention?

19 A Tammy.

20 Q Okay. What specifically did Ms. Lindsay
21 tell you her concerns were regarding notification
22 and pre-approval?

23 A Lack of it.

24 Q When did Ms. Lindsay bring these concerns
25 to your attention?

Lucinda Allen
December 03, 2019

39

1 A I don't remember a specific date.

2 Q Did she bring these concerns to your
3 attention more than once?

4 A I don't recall.

5 Q Did you discuss Ms. Lindsay's concerns
6 regarding notification -- lack of notification
7 and lack of approval with Ms. Payne?

8 A No.

9 Q Why not?

10 A She didn't report directly to me.

11 Q Did you discuss these concerns with
12 anybody besides Ms. Lindsay?

13 A I don't recall.

14 Q Again, limited to the time period between
15 the first and the second agreement, so February
16 of 2017, May of 2017, did Ms. Payne ever complain
17 to you that Ms. Lindsay was not allowing her to
18 work remotely?

19 A Not that I recall.

20 Q Okay. During that time period, excuse
21 me, did Ms. Payne complain to you that Ms.
22 Lindsay was scrutinizing her timecard?

23 A Not that I recall. During the 2/6 to
24 5/1, no.

25 Q All right. During this time period did

Lucinda Allen
December 03, 2019

40

1 Ms. Payne ever complain to you that Ms. Lindsay
2 was not abiding by the flex agreement that is
3 Exhibit 1?

4 A No.

5 Q Okay.

6 A Not that I recall.

7 Q Do you know if Ms. Lindsay ever discussed
8 her concerns regarding -- regarding pre-approval
9 and notification with Ms. Payne?

10 A I don't know specifically if she did or
11 not.

12 Q Okay. Do you know if she brought those
13 concerns to anyone in HR?

14 A I don't know specifics. Again, anything
15 I would say would be assumptions.

16 Q Okay. Don't want you to assume or to
17 guess. Okay. And I'm going to go run through
18 the same type of concerns for the next time
19 period, which would be between the second and the
20 third agreement, so May of 2017 to we'll go by
21 the signature date of August 2017. During that
22 time period, did Ms. Payne --

23 A I'm sorry.

24 Q Sorry?

25 A Which dates are we going --

Lucinda Allen
December 03, 2019

41

1 Q So from the effective date of Exhibit 4,
2 May 1, 2017 and we'll go to the signature date of
3 Exhibit 5, August 28th, 2017.

4 A Okay.

5 Q During that time period did Ms. Payne
6 ever complain to you that Ms. Lindsay was not
7 abiding by the flexible work agreement?

8 A Not that I recall.

9 Q Okay. During that time period did Ms.
10 Payne complain that Ms. Lindsay was scrutinizing
11 her timecard?

12 A She may have. I don't specifically
13 recall it, but I would like to point out that
14 supervisors are supposed to review time cards,
15 that is their job, that's their role. We sign
16 off on hours worked. Supervisors sign off on
17 hours worked, so that is a standard procedure.

18 Q Okay. During this time period did Ms.
19 Payne ever complain that Ms. Lindsay would not
20 approve her for -- to work remotely?

21 A So this isn't a given. This is not a
22 right. These are agreements and both parties
23 need to comply with the terms of the agreement.
24 And pre-approval is pre-approval and in writing
25 is a requirement.

Lucinda Allen
December 03, 2019

42

1 MS. VINCI: Okay. Move to strike as
2 non-responsive.

3 Q My question was during this time period
4 -- I understand that this is not a -- a right
5 that she has to do at any point in time and there
6 are mechanisms for getting approval. My question
7 was, however, whether or not during this time
8 period Ms. Payne ever complained to you that Ms.
9 Lindsay would not approve her to work from home?

10 A Not that I recall.

11 Q Okay. During this time period did Ms.
12 Payne complain to you that Ms. Lindsay was not
13 allowing her to have a flexible start or end
14 time?

15 A Again, not that I recall specifically.

16 Q Okay. During this time period did Ms.
17 Payne ever complain to you that Ms. Lindsay was
18 changing her timecard?

19 A I don't recall that.

20 Q Okay. Are -- in supervising and
21 reviewing and approving timecards, are managers
22 permitted to change them in any way, change the
23 hours worked?

24 A I would have to look at policy
25 specifically. I think we are requested to -- I

Lucinda Allen
December 03, 2019

43

1 can talk to -- yeah, I'd have to look at the
2 policy.

3 Q Which policy is that that you're
4 referring to?

5 A There's a time entry and hours worked.

6 Q Okay. During this time period, again,
7 the May 1, 2017 to August 28th, 2017 did Ms.
8 Lindsay bring to your attention any more concerns
9 she had regarding Ms. Payne?

10 MR. PENCE: Object to form, but to
11 the extent you understand the question, you
12 may answer.

13 A Yes.

14 Q Okay. What concerns did Ms. Lindsay
15 bring to your attention?

16 A There were concerns about her developing
17 skills and being able to work analytically on
18 things. There were concerns about excessive time
19 off unrelated to any medical leave, and there was
20 concern that without being present and being on
21 the job that it was going to be difficult to get
22 her up to speed of the rest of the group.

23 Q With respect to Ms. Lindsay's concern
24 that Ms. Payne was taking excessive time off
25 unrelated to her medical needs, do you know how

Lucinda Allen
December 03, 2019

44

1 she knew that her absences were unrelated to
2 medical needs?

3 A When you fill out the time off request
4 you put in.

5 Q Do you know was there a set amount of
6 time that Ms. Payne had available to her to take
7 off for non-medical needs?

8 MR. PENCE: Object to form, but you
9 may answer.

10 A I don't think -- so she accumulated time,
11 she would accumulate time, but Ms. Lindsay gave
12 her time off in addition. When she rang the bell
13 -- when she had rang the bell and her cancer
14 treatment was done, she asked to please spend
15 some -- a week vacation. She felt it was really
16 needed for her family and felt that they really
17 needed an opportunity to bond and put this beyond
18 them, and that was approved, time off with
19 basically no -- you know, an unpaid time. And
20 then there was things related to buying a house
21 that came up. So I mean your time off is your
22 time off, it accumulate -- it doesn't accumulate
23 in a leave bucket and a non-leave bucket, but --

24 Q After Ms. Payne, as you said, rang the
25 bell after her cancer treatments, to your

Lucinda Allen
December 03, 2019

45

1 knowledge --

2 A Uh-huh.

3 Q -- had been completed, do you know what,
4 if anything, her treatment plan was after that
5 for followup?

6 A Not specifically.

7 Q Okay. Do you know just generally at all?

8 A Not specifically. I know that we had a
9 celebration and she said she was very excited to
10 be released fully to work and become a part of
11 the team in that celebration that we had for her,
12 so --

13 Q Did you ever speak to Ms. Payne about Ms.
14 Lindsay's concerns that she was not developing
15 the necessary skills in her role?

16 A No, I don't believe so. I don't believe
17 I did.

18 Q Okay. Did you ever discuss with Ms.
19 Payne Ms. Lindsay's concern that she was taking
20 too much time off unrelated to her medical needs?

21 A No, but I know that Ms. Lindsay did.

22 Q How do you know that Ms. Lindsay did?

23 A She told me she was going to.

24 Q She told she was going to speak with Ms.
25 Payne?

Lucinda Allen
December 03, 2019

46

1 A Uh-huh.

2 Q Or that she had spoke to Ms. Payne?

3 A Going to speak to her and had spoke to
4 her, both.

5 Q Okay. And what did Ms. Lindsay tell you
6 about the conversation she had had with Ms. Payne
7 regarding Ms. Lindsay's concern that she was
8 taking too much time off unrelated to her medical
9 needs?

10 A Basically they weren't in agreement.

11 Q Did you ever speak to Ms. Payne about Ms.
12 Lindsay's concern that she wasn't able to get up
13 to speed as other members in the group?

14 A No.

15 Q Okay. Did you have any opinion related
16 to Ms. Payne's work performance as a data
17 analyst?

18 A Yes.

19 MR. PENCE: Object to form, but you
20 may answer.

21 A Yes.

22 Q And what was that opinion?

23 MR. PENCE: Same objection. You may
24 answer.

25 A I hadn't seen that she was able to take

Lucinda Allen
December 03, 2019

47

1 on a project and handle it fully independently.
2 There were a lot of errors in her work. There
3 were things that were not thought through. There
4 were times where she would not ask the questions
5 to get the full information, and I was concerned
6 that we hadn't gotten her up to speed.

7 Q Did you discuss these performance issues
8 with Ms. Payne?

9 A No, she didn't report to me.

10 Q Did -- strike that. Did you supervise
11 Ms. Payne's day-to-day work?

12 MR. PENCE: Under which time period?

13 Q At any time period.

14 A Day-to-day work, no, but I would see
15 reports she produced. So that's how I knew there
16 were errors.

17 Q Would you discuss those errors with
18 anybody?

19 A Her supervisor Tammy.

20 Q That would be Ms. Lindsay?

21 A Yes.

22 Q Do you know if Ms. Lindsay spoke to Ms.
23 Payne regarding those errors?

24 A I don't know for sure.

25 Q You said earlier that you had reviewed an

Lucinda Allen
December 03, 2019

48

1 e-mail meant for Ms. Shaw regarding your lack of
2 confidence in Ms. Payne's skills and abilities,
3 do you remember that?

4 A Yes.

5 Q Did you ever actually send that e-mail to
6 Ms. Shaw?

7 MR. PENCE: Object to form. We don't
8 have the document in front of us, but to
9 the extent you can recall.

10 A I don't know.

11 Q Okay.

12 A I definitely sent it in error to Denise.

13 Q Okay. Did you ever discuss with Ms. Shaw
14 your concerns regarding Ms. Payne's performance?

15 A I wouldn't characterize it exactly that
16 way.

17 Q How would you characterize it?

18 A I would characterize it that we were
19 looking for a task and responsibilities that
20 Denise could do. And I did not feel that she was
21 developed enough for some specific task.

22 Q What tasks was, did you feel she was not
23 developed enough for?

24 A So this specific e-mail was related to
25 rankings and there's an art to submitting data

Lucinda Allen
December 03, 2019

49

1 for rankings. A lot depends on it for the
2 college and the College of Business in terms of
3 how you interpret and how you answer the
4 question. And Denise was not one to think
5 strategically through those things, nor to run
6 responses by other individuals, or to ask for
7 their incite.

8 Q Did you discuss these issues with her
9 ability to -- to perform or run the rankings with
10 Denise?

11 A After I sent the e-mail I did.

12 Q Okay.

13 A I went up immediately and asked to talk
14 to her, told her that I had growing concerns
15 about how she had developed in the group and that
16 I thought, you know, that I wanted to make
17 certain that we were getting her to the point
18 where she could handle some of these tasks, but I
19 had concerns. And she screamed and yelled at me
20 and walked out.

21 Q What did she scream and yell at you?

22 A That she didn't want to talk about it,
23 that she was as good as anybody in the group and
24 she walked out on that meeting.

25 Q Was anybody in that meeting besides

Lucinda Allen
December 03, 2019

50

1 yourself and Ms. Payne?

2 A No.

3 Q Did there come a point in time that Ms.
4 Payne complained that her work environment was
5 affecting her health?

6 A I don't recall specifics of that to me, I
7 believe she was seeking the counsel of HR.

8 MS. VINCI: Could we mark this as
9 Exhibit A?

10 (EXHIBIT A MARKED FOR IDENTIFICATION.)

11 Q Ms. Allen, you've been handed what's been
12 marked as Plaintiff's Exhibit A. If you could
13 review that and let me know when you've had a
14 chance to do so. Have you had a chance to review
15 Exhibit A?

16 A I have.

17 Q Do you recognize this e-mail?

18 A It's an e-mail from Denise to me.

19 Q So the -- it appears to be a chain of
20 e-mails, or a series of e-mails, and the top
21 e-mail is from Ms. Payne to yourself dated May
22 9th, 2017 at 9:50 a.m. and it reads: Hi, Cindy,
23 do you have some time to talk to me today? I
24 have some concerns with the turmoil of this team
25 and how it may impact my health; do you see that?

Lucinda Allen
December 03, 2019

51

1 A Uh-huh, yes.

2 Q Do you recall receiving this e-mail?

3 A I don't recall receiving it, but clearly
4 I did, so --

5 Q Do you --

6 A Well --

7 Q Sorry, were you finished?

8 A Uh-huh.

9 Q Okay. Do you recall speaking to Ms.
10 Payne in May of 2017 regarding what she
11 considered turmoil within the team?

12 A I don't recall if I spoke with her after
13 this or not.

14 Q Okay. Do you recall Ms. Payne ever
15 stating to you that her health was being affected
16 by working on the team?

17 A She does right here.

18 Q I understand that she says that in this
19 e-mail. I'm saying separately from this. Do you
20 recall her ever complaining to you that working
21 on the team was affecting her --

22 A Health.

23 Q -- health?

24 A No.

25 Q Did Ms. Payne ever complain to you about

Lucinda Allen
December 03, 2019

52

1 working with Ms. Lindsay?

2 A I don't recall specifically. I do know
3 things were degrading.

4 Q When you say degrading, what do you mean
5 by that?

6 A My interpretation of the events, Denise
7 did not appreciate being managed. A supervisor
8 that looks at the time you're taking or your
9 request for time off, or how you're developing
10 and getting up to speed and tries to have those
11 developmental conversations, she was not
12 receptive to them.

13 Q Are you aware of any specific issue or
14 complaint Ms. Payne had regarding how she was
15 being managed?

16 MR. PENCE: Object to form, but you
17 may answer.

18 A Well, you mentioned it previously, she
19 didn't like having her timecard reviewed. She
20 did not like being required to get approval on
21 taking time -- taking time off. She did not like
22 people asking her questions, Ms. Lindsay asking
23 her questions about why she did something a
24 certain way. In terms of reporting or the work.

25 Q Was it that she -- your understanding --

Lucinda Allen
December 03, 2019

53

1 in your understanding, was that she did not like
2 having to get pre-approval for time off, or that
3 her time off was not being approved?

4 MR. PENCE: Object to form. Calls
5 for speculation.

6 A Yeah, I have lots of opinions.

7 Q Well -- well, you just in response
8 mentioned -- well, strike that. Did she ever
9 complain to you that Ms. Lindsay was not
10 approving her time?

11 MR. PENCE: Under what time period
12 again?

13 Q At any point.

14 A Not that I recall.

15 Q Okay. You mentioned that you were aware
16 Ms. Payne was engaging in some way with human
17 resources, correct?

18 A Uh-huh.

19 Q When did you first become aware that Ms.
20 Payne had gone to human resources with any
21 complaints about her work environment?

22 A I don't remember a specific date. I
23 don't remember a specific date.

24 Q Do you recall any time period, whether it
25 was -- what year or the month?

Lucinda Allen
December 03, 2019

54

1 A No, I don't, and it was through
2 conversation with Kathy Doxey, but I don't
3 remember specifics.

4 Q Do you recall anything that Ms. Doxey
5 told you about Ms. Payne reaching out to human
6 resources?

7 A No.

8 Q Okay. Do you know the nature of Ms.
9 Payne's complaints to human resources?

10 A Not specifically that I would restate.

11 Q Do you know generally the nature of her
12 complaints to human resources?

13 A Generally it was about time and time off
14 and not necessarily liking to get the
15 pre-approval.

16 Q Do you know if Ms. Payne ever accused Ms.
17 Lindsay of discriminating against her?

18 A No.

19 MR. PENCE: Object to form, but you
20 may answer.

21 A No, no, I don't recall.

22 Q Okay. Do you know if Ms. Payne ever
23 accused Ms. Lindsay of not giving her disability
24 accommodations?

25 MR. PENCE: Object to form.

Lucinda Allen
December 03, 2019

55

1 A Yes.

2 Q Okay. How are you aware of that?

3 A From Ms. -- from Ms. Lindsay. When she
4 rang the bell back on this 5/1 (indicating).

5 Q Okay.

6 A We were under the understanding from her
7 work release that she was released entirely in
8 full. And it came up post that release, post
9 this agreement (indicating).

10 Q When you say it came up post this
11 agreement, what's the it or the that?

12 A When Tammy told me that Denise felt she
13 was still on medical leave.

14 Q Okay. At that time did Ms. Lindsay
15 elaborate about what she -- well, strike that.
16 When you say that Ms. Lindsay told you Denise
17 felt like she was still on medical leave, is that
18 a direct quote of Ms. Lindsay or are you just --

19 A No.

20 Q -- summarizing the --

21 A I'm summarizing.

22 Q Okay. Okay. Did Ms. Lindsay give you
23 any examples, or specifics about in what way Ms.
24 Payne felt she was still on medical leave?

25 A No.

Lucinda Allen
December 03, 2019

56

1 Q What she did or said?

2 A No.

3 Q Okay. Other than hearing from Ms.

4 Lindsay that Ms. Payne felt she was not getting
5 accommodations, did you hear from anyone in HR
6 that Ms. Payne felt she was not getting proper
7 accommodations at Cornell?

8 A I don't recall that.

9 Q Okay. Do you recall having a meeting
10 with human resources regarding Ms. Payne and her
11 flex work agreements?

12 A No.

13 Q Do you recall having any meeting with
14 Kathy Doxey, Ms. Payne, Ms. Lindsay and Julie
15 Weaver regarding Ms. Payne's complaints to human
16 resources?

17 A Not -- no.

18 Q Okay.

19 A Not specifically.

20 Q Did you have any meetings with human
21 resources regarding Ms. Payne?

22 A I don't recall any specifics.

23 Q Okay. You said that you learned Ms.
24 Payne had gone to human resources through Kathy
25 Doxey; is that correct?

Lucinda Allen
December 03, 2019

57

1 A Yes.

2 Q What did Ms. Doxey tell you about Ms.
3 Payne reaching out to human resources?

4 A She told me that Ms. Payne had concerns
5 about time off and working with Tammy Lindsay.

6 Q Did Ms. Doxey elaborate on what the --
7 Ms. Payne's concerns were about working with Ms.
8 Lindsay?

9 A No, she didn't. She -- I mean, she may
10 have. I'm sure she probably -- I don't remember
11 specifics.

12 Q Again, we're not asking you to guess.

13 A Yeah.

14 Q I understand that these questions are
15 geared toward a time period --

16 A Uh-huh.

17 Q -- that happened many years ago. If you
18 don't remember, it's perfectly okay to say you
19 don't remember. How many times did you speak
20 with Ms. Doxey regarding Ms. Payne's discussions
21 or complaints to human resources?

22 A I don't recall. I don't know how many
23 times.

24 Q Was it more than once?

25 A I don't know.

Lucinda Allen
December 03, 2019

58

1 Q Do you know an individual named Julie
2 Weaver?

3 A Yes.

4 Q Did she also work in human resources?

5 A She did.

6 Q Did you ever speak with Ms. Weaver about
7 Ms. Payne's complaints to HR?

8 A Not that I recall.

9 Q What, if anything, did you say to Ms.
10 Doxey in response to learning about Ms. Payne's
11 complaints to HR?

12 A I don't recall. I don't recall specifics
13 of what her conversation was or how I responded.
14 I don't recall any specifics at all really.

15 Q Did you ever speak to Ms. Payne about her
16 going to human resources?

17 A No.

18 Q Did you ever speak to Ms. Lindsay about
19 Ms. Payne going to human resources?

20 A Yes.

21 Q Do you recall when you did that?

22 A No.

23 Q Do you recall when Ms. Doxey told you
24 about Ms. Payne going to human resources?

25 A No.

Lucinda Allen
December 03, 2019

59

1 Q What did you discuss with Ms. Lindsay
2 when you spoke about Ms. Payne going to human
3 resources?

4 A I don't remember specifics, but it would
5 be common. And I'm sure I did it here, to talk
6 to her about a situation where an employee was
7 feeling uncomfortable and how -- basically, coach
8 her.

9 Q Coach her, did you say?

10 A Yeah, coach Ms. Lindsay and --

11 Q Do you recall what, if any, response Ms.
12 Lindsay had to that?

13 A No, I don't.

14 Q Okay. Do you know if Ms. Lindsay ever
15 spoke to Ms. Payne about going to HR?

16 A I don't, no.

17 Q Did you ever go to HR to complain about
18 Ms. Payne?

19 A Not that I recall.

20 Q Okay. Did you ever speak to Ms. Doxey
21 about Ms. Payne's work performance?

22 A Yes.

23 Q Okay. When did that happen? Well,
24 strike that. How many times did you speak with
25 Ms. Doxey about Ms. Payne's work performance?

Lucinda Allen
December 03, 2019

60

1 A I don't know specifically how many, but
2 it would've been common for -- to talk about
3 developing an employee and getting them up to
4 speed, and so I do know I talked about that. And
5 also, we were -- again, we were still trying to
6 figure out what this group was going to do, you
7 know, or if there was even going to be a group.
8 So we would have strategic planning meetings to
9 talk about who could go where. Prior to my
10 leaving, they were talking about disbanding the
11 group.

12 Q When did you leave?

13 A November of 2017.

14 Q Do you know who, if anyone, replaced you?

15 A No, no one replaced me.

16 Q Do you know what happened to the group
17 upon your departure?

18 A Yes, it was disbanded. Those functions
19 were to be done by the colleges.

20 Q Do you know what happened to Ms. Payne
21 after the group disbanded?

22 A I know they laid off everybody remaining
23 in the group.

24 Q How many people were remaining in the
25 group at that time, the time of your departure?

Lucinda Allen
December 03, 2019

61

1 A So I'm going to go back to that last
2 question, saying they laid off everybody. I
3 think one individual may have taken a different
4 job and moved, but then the remaining people --
5 someone had already resigned, someone took
6 another job, and then the remaining people were
7 laid off.

8 Q Okay. Do you know how many people were
9 ultimately laid off from that group at that time?

10 A I believe two.

11 Q Who were they?

12 A Tammy Lindsay and Denise Payne.

13 Q Do you know if following the disbandment
14 of the group Ms. Lindsay continued to work for
15 Cornell for a time?

16 MR. PENCE: Object to form, but you
17 may answer.

18 A I think she came back as a temporary
19 doing a project.

20 Q Do you know if Ms. -- following being
21 laid off, do you know if Ms. Payne put in any
22 applications to work at Cornell again?

23 A I don't know that.

24 Q Okay. Did you ever speak to Ms. Weaver
25 about your concerns regarding Ms. Payne's work

Lucinda Allen
December 03, 2019

62

1 performance?

2 A I don't recall. I don't know if I did or
3 not.

4 Q Okay.

5 MS. VINCI: Let's mark this as B.

6 (EXHIBIT B MARKED FOR IDENTIFICATION.)

7 Q You've been handed what's been marked as
8 Exhibit B. Just take your time to review that.
9 Let me know when you've had a chance to do so.
10 Have you had a chance to review Exhibit B?

11 A Yes.

12 Q Okay. Have you ever seen this document
13 before?

14 A No.

15 Q Okay. Would you agree this is an e-mail
16 from Tammy Lindsay to Denise Payne dated Tuesday
17 June 13th, 2017?

18 A Yes.

19 Q Okay. And the first line Ms. Lindsay
20 writes: Cindy did call me to talk to me about
21 the conversation she had with you; do you see
22 that?

23 A Uh-huh.

24 Q Do you recall having a conversation with
25 Ms. Lindsay around June 13th, 2017 about a

Lucinda Allen
December 03, 2019

63

1 conversation you had with Ms. Payne?

2 A No.

3 Q Okay. Do you know what Ms. Lindsay is
4 referring to here in that first line?

5 A Nope.

6 Q Okay.

7 (EXHIBIT C MARKED FOR IDENTIFICATION.)

8 Q You've been handed what's been marked as
9 Exhibit C. Once again, just take your time to
10 review that. Let me know when you've had a
11 chance to do so.

12 A Okay.

13 Q Do you recognize this document?

14 A I don't recognize this document. I mean,
15 I don't recall it, but I know about when it
16 happened.

17 Q Okay. So this appears to be an e-mail
18 chain between yourself and Ms. Payne.

19 A Uh-huh.

20 Q With Ms. Lindsay copied on the top e-mail
21 from July 11th, 2017; do you see that?

22 A Yes.

23 Q And in the bottom e-mail, Ms. Payne
24 writes: Hi, Cindy. When we met briefly last
25 Friday, you mentioned that I am making a lot of

Lucinda Allen
December 03, 2019

64

1 mistakes. This is just a reminder that I will
2 need further clarification and examples to
3 understand and improve; do you see that?

4 A Yes.

5 Q Do you recall meeting with Ms. Payne
6 around July 11th, 2017 regarding your opinion
7 that she was making a lot of mistakes?

8 A Yes, I think this specific e-mail is a
9 followup to -- that Friday she's speaking about
10 is the one where she was screaming and yelling at
11 me and walked out.

12 Q Okay. So --

13 A So I had mentioned when I went up to see
14 her, the concerns that I had about the
15 performance.

16 Q Okay. So this meeting that she's
17 referencing happened last Friday.

18 A Uh-huh.

19 Q Is that the meeting you told us about
20 occurred after you accidentally sent the e-mail
21 to her?

22 A I believe so. We'd have to look at the
23 e-mail stream, but I think that's the case.

24 Q Okay. She goes on to write: When we
25 discussed my cards/flexible work arrangement, you

Lucinda Allen
December 03, 2019

65

1 also mentioned that may be the cause of my
2 mistakes, so I'm hoping you can give me more
3 information and clarify that statement as well;
4 do you see that?

5 A Yes.

6 Q During that meeting that happened --
7 during the meeting that happened on that Friday
8 that she's referencing here, did you discuss Ms.
9 Payne's timecard with her?

10 A I don't recall that specifically.

11 Q Okay. Did you discuss her flexible work
12 arrangement with her during that Friday meeting?

13 A I don't recall that.

14 Q Okay. Prior to July 11th, 2017 do you
15 recall ever discussing Ms. Payne's timecard with
16 her?

17 A Say that again, please.

18 Q Prior to July 11th, 2017 do you recall
19 ever discussing Ms. Payne's timecard with her?

20 A No.

21 Q Okay. And prior to July 11th, 2017 do
22 you ever recall discussing Ms. Payne's flexible
23 work arrangement with her?

24 A No.

25 Q Did you ever tell Ms. Payne that her work

Lucinda Allen
December 03, 2019

66

1 arrangement was causing her to make mistakes?

2 A No, I believe this is her interpretation.

3 Q Okay. Did you believe that Ms. Payne's
4 work arrangement was causing her to make
5 mistakes?

6 MR. PENCE: Excuse me, sorry. During
7 which time period; this time period?

8 MS. VINCI: At any point.

9 MR. PENCE: Well, there were three
10 flexible work agreements spanning a
11 significant period of time, so --

12 MS. VINCI: During any part of that
13 time.

14 Q Did you ever believe that Ms. Payne's
15 flexible work arrangement caused her to make
16 mistakes?

17 A No.

18 Q Okay. Did you ever believe that Ms.
19 Payne's flexible work arrangement caused her to
20 not develop the skills --

21 A Yes.

22 Q -- to be in the group? Okay.

23 A Wait a second, I want to clarify that.

24 Q Okay.

25 A Not the work agreement. I -- not the

Lucinda Allen
December 03, 2019

67

1 work agreement or the flexible agreement. I
2 think the excess -- excessive non-medical time
3 off made it hard to develop her, and her lack of
4 an ability to take coaching, but not the work
5 agreement.

6 Q How often would Ms. Payne take
7 non-medical time off?

8 MR. PENCE: Again, during which time
9 period?

10 Q Okay. So let's do it for, as we had
11 before, so from February 2017 to May of 2017 how
12 often would Ms. Payne take non-medical time off?

13 A I don't know.

14 Q Okay. From May of 2017 to August 2017
15 how often would Ms. Payne take non-medical time
16 off?

17 A I can't give specifics. I know there's a
18 lot of things that she had going on that we
19 agreed to give her time off for.

20 Q During that time period or during the
21 entire employment as a data analyst?

22 A During that time period.

23 Q Okay. What things did you agree to give
24 her time off for?

25 A She had a house that she was trying to

Lucinda Allen
December 03, 2019

68

1 buy and land. She wanted to take the trip after
2 she rang the bell, she wanted to take that trip
3 with the family and we approved that. There were
4 odds and ends that came up. She wanted to take a
5 course and was looking into some of that, we
6 agreed to that.

7 Q Okay. So -- so far you've told me of
8 three non-medical time off circumstances.

9 A Uh-huh.

10 Q The house and purchasing land, taking the
11 trip with the family after she finished her
12 treatments, and some odds and ends that came up
13 within the --

14 A Uh-huh.

15 Q -- May of 2017 to August 2017 time
16 period. Were all of those times off approved to
17 your knowledge?

18 MR. PENCE: Object to form. You may
19 answer.

20 A I do believe they were approved.

21 Q Okay. Who would approve them?

22 A Tammy.

23 Q Did Tammy ever consult with you before
24 approving one of Ms. Payne's requested time off
25 for non-medical reasons?

Lucinda Allen
December 03, 2019

69

1 A I don't recall specifically that she
2 would say yay or nay, but I think when they were
3 an aggregate of, you know, the types of things we
4 were giving off, we talked about it.

5 Q Okay. Did you ever discuss with Ms.
6 Payne that you felt her absences for non-medical
7 reasons was causing her to make mistakes --

8 A No.

9 Q -- in her job performance?

10 A No.

11 Q Okay.

12 MS. VINCI: We'll take a break.

13 (OFF THE RECORD.)

14 Q Do you recall if Ms. Payne ever
15 complained to you that she did not have enough
16 work to do?

17 A I don't recall that.

18 Q Okay. Do you know if she ever complained
19 to anybody that she did not have enough work to
20 do in the business analytics department?

21 A I -- I don't know.

22 Q Okay. Did you ever have a meeting with
23 -- or do you recall having a meeting with Ms.
24 Doxey and Ms. Weaver and Ms. Lindsay in the
25 summer of 2017 regarding your and Ms. Lindsay's

Lucinda Allen
December 03, 2019

70

1 concerns about Ms. Payne's work performance?

2 A I don't recall that meeting. Not that
3 there wasn't one, I don't recall it.

4 Q Okay.

5 A The other thing I would -- I just want to
6 clarify.

7 Q Sure.

8 A When you say -- maybe I'm taking this too
9 literally. When you say did Ms. Payne ever tell
10 me, I'm assuming you mean like verbally in a
11 meeting, but I -- I was copied on a lot of
12 e-mails. I don't specifically remember an e-mail
13 that addressed that, but, you know, it -- it's
14 not uncanny to be copied on things, so --

15 Q Okay. So --

16 A So I'm thinking verbally, face-to-face.

17 Q I understand. So I'm going to kind of
18 like go back through a couple of questions from
19 today.

20 A Yeah.

21 Q To your knowledge did Ms. Payne ever
22 express either verbally, in an e-mail to you, in
23 an e-mail you were copied on, or in any way, that
24 she did not have enough work to do in the
25 business analytics department?

Lucinda Allen
December 03, 2019

71

1 A I don't recall that.

2 Q Okay. Did Ms. Payne ever, to your
3 knowledge, complain or -- well, not complain. Or
4 express, again, either face-to-face, verbally to
5 you, on a phone call, in an e-mail, in any way,
6 that she felt that Ms. Lindsay was not abiding by
7 any of the flex work agreements?

8 A I don't recall --

9 Q Okay.

10 A -- that specifically.

11 Q Did Ms. Payne ever express to you, again,
12 in any way, shape, or form that she -- that she
13 felt discriminated against at Cornell?

14 MR. PENCE: Object to form, but to
15 the extent you understand the question, you
16 may answer.

17 A No.

18 Q Did Ms. Payne express in any way to you,
19 or in any correspondence you were copied on, that
20 Ms. Lindsay was not providing her with the
21 accommodation under her work agreements?

22 A No, not that I recall.

23 Q Okay. And you -- I believe you testified
24 already that you're not aware of any applications
25 Ms. Payne submitted after she was laid off from

Lucinda Allen
December 03, 2019

72

1 the business analytics department?

2 A That's true. I don't know if she applied
3 or not.

4 MS. VINCI: I don't have any further
5 questions.

6 MR. PENCE: Okay. I don't have any
7 redirect. We'll reserve and sign.

8 * * *

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Lucinda Allen
December 03, 2019

73

1 A F F I D A V I T

2
3 STATE OF NEW YORK

4 COUNTY OF _____

5
6 I have read my deposition, and the
7 same is true and accurate, save and except for
8 changes and/or corrections, if any, as indicated
9 by me on the correction sheet attached hereto.

10
11 _____

12 LUCINDA ALLEN

13
14
15 SUBSCRIBED AND SWORN TO before me this
16 _____ day of _____, 20 _____.
17
18 _____

19
20 NOTARY PUBLIC

21
22
23 My commission expires on _____.
24
25

Lucinda Allen
December 03, 2019

74

1 STATE OF NEW YORK

2 COUNTY OF CHEMUNG

3 I, Caitlyn A. Shaylor, do hereby certify
4 that before the taking of the deposition, the said
5 witness was by me first duly sworn to testify
6 to the truth, the whole truth and nothing but the
7 truth and that the above deposition was recorded by
8 me in stenotype and reduced to typewriting under my
9 supervision.

10 I further certify that the said
11 deposition constitutes a true record of the
12 testimony given by said witness to the best of my
13 ability.

14 I further certify that the said
15 deposition was taken before me at the time and
16 place specified in the notice.

17 I further certify that I am not a
18 relative or employee or attorney or counsel of any
19 of the parties, or a relative or employee of such
20 attorney or counsel or financially interested
21 directly or indirectly in this action.

22
23 _____
24 CAITLYN A. SHAYLOR
25

Lucinda Allen
December 03, 2019

75

I N D E X

3	Witness	Examination By	Pages
4	Lucinda Allen	Ms. Vinci	3-72

E X H I B I T S

16	Number	Description	Page
17	A	E-mail chain dated May 9th, 2017	50
18	B	E-mail dated June 13th, 2017	62
19	C	E-mail chain dated July 11th, 2017	63

Lucinda Allen
December 03, 2019

1

1

1 26:14 33:15 37:3
38:3 40:3 41:2 43:7
10/30/2017 31:10
11th 63:21 64:6
65:14,18,21 75:19
13 10:15
13th 62:17,25 75:18
16th 27:8
1st 27:11 31:1,9 35:1
36:11,15

2

2/6 39:23
20 73:16
2006 10:15
2010 10:2
2012 27:11
2015 12:24
2016 12:24 14:19
16:24 17:12 21:2,20,
23
2017 21:23 27:2,11
31:1,2,8,9 32:24,25
35:1,3,9,14 36:11,
12,15,16,20 37:24
38:1,2,7,8 39:16
40:20,21 41:2,3 43:7
50:22 51:10 60:13
62:17,25 63:21 64:6
65:14,18,21 67:11,14
68:15 69:25 75:17,
18,19
23rd 17:12
28th 31:8 35:3,9,14
41:3 43:7
2nd 27:2

3

3-72 75:4
30th 31:2 36:12,16
31st 21:2

4

4 30:7,15,17,23 32:13

34:2,19 35:2,22
36:1,2,10,13,14
37:11 41:1

5

5 30:7,15,17 31:4,10
34:2 35:4,10,15 36:6
37:14 41:3
5/1 39:24 55:4
50 75:17

6

62 75:18
63 75:19
6th 27:11

9

9 17:2,5
9:50 50:22
9th 50:22 75:17

A

a.m. 50:22
abiding 40:2 41:7
71:6
abilities 9:15 48:2
ability 6:14,18 10:16
11:10 29:6,8 37:25
49:9 67:4 74:13
absences 44:1 69:6
accepted 23:17
accidentally 64:20
accommodate 33:25
accommodation 34:7
71:21
accommodations 54:24
56:5,7
accumulate 44:11,22
accumulated 44:10
accurate 73:7
accurately 5:11
accused 54:16,23
acronym 4:9
action 3:24 74:21

Adam 6:23,25 8:12,19
addition 5:11 44:12
address 29:7
addressed 24:11 70:13
ADIC 4:9,20
Administration 10:8
11:14,22 24:16
admins 11:16
advanced 4:9
affected 51:15
affecting 50:5 51:21
afternoon 3:7
aggregate 69:3
agree 17:13 27:2
62:15 67:23
agreed 67:19 68:6
agreement 25:17,20
26:3,7,10 27:1,17,
21,25 28:8 29:2
30:25 31:7 32:8,25
33:8,15 34:8,18
35:3,5 36:20 37:4,12
38:1,4 39:15 40:2,20
41:7,23 46:10 55:9,
11 66:25 67:1,5
agreements 31:16,20,
23 32:4 34:10 36:23
37:22 41:22 56:11
66:10 71:7,21
ahead 30:11
allegations 3:12
Allen 3:7 17:16 50:11
73:12 75:4
allowed 35:6,11,17
allowing 28:15 39:17
42:13
Amanda 9:10,12
amount 44:5
analyst 14:21,23
17:20,25 19:20 21:1
23:18,21 25:4 46:17
67:21
analytically 43:17
analytics 13:7,19
14:13,24 15:7 16:15,
20 22:24 23:2 24:7,
18 25:1,5 69:20
70:25 72:1
and/or 73:8
announced 12:23

Lucinda Allen
December 03, 2019

2

answering 22:12 answers 5:4 anticipate 6:4 Apologies 30:11 appears 17:10 50:19 63:17 applications 61:22 71:24 applied 72:2 apply 28:20 appointment 28:12 appointments 24:18 29:9 33:22 apprehension 20:12 approval 18:17,22,24 39:7 42:6 52:20 approve 41:20 42:9 68:21 approved 44:18 53:3 68:3,16,20 approving 42:21 53:10 68:24 arose 38:6 arrangement 28:15,20 29:2 31:6 34:2,6,23 36:5 64:25 65:12,23 66:1,4,15,19 art 48:25 articulate 5:7 assigned 23:6 assignments 23:12 assume 5:24 40:16 assumed 23:20 assuming 70:10 assumptions 40:15 attached 73:9 attention 38:18,25 39:3 43:8,15 attorney 74:18,20 August 35:3,9,14 36:20 40:21 41:3 43:7 67:14 68:15 aware 7:15 19:20 26:1 38:5 52:13 53:15,19 55:2 71:24	band 15:2,20,22 16:11,14 bandwidth 24:14 based 4:12 22:9 33:6 basically 44:19 46:10 59:7 basis 9:13 began 21:20 begin 31:9 beginning 19:19 20:25 behalf 7:25 17:16 bell 32:6,16,21 44:12,13,25 55:4 68:2 Biomolecular 10:9 bond 44:17 bottom 63:23 box 34:3 36:5 boxes 29:5 brand 22:21 break 6:2,6,8 23:15 69:12 breaks 6:4 briefly 63:24 bring 16:3 38:18,24 39:2 43:8,15 brought 3:10 40:12 BSL 22:25 bucket 44:23 business 12:20,21 13:7,19 14:13,24 15:7,24 16:15,19 17:21 18:1,13 22:2, 17,23 23:1,21 24:7, 17,25 25:4 49:2 69:20 70:25 72:1 buy 68:1 buying 44:20	cards/flexible 64:25 case 4:3 7:16,22 8:1 64:23 caused 66:15,19 causing 66:1,4 69:7 celebration 45:9,11 center 11:21 certify 74:3,10,14,17 chain 12:9 50:19 63:18 75:17,19 chance 17:4 30:9,20 50:14 62:9,10 63:11 change 16:7 28:16,22 29:3 30:1 34:3 35:21 36:4 42:22 changed 34:22 changing 42:18 characterize 48:15, 17,18 check 28:20 checked 28:22 29:5 34:4,23 35:23 36:6 chefs 11:16 Chemical 10:9 chemo 32:7 CHEMUNG 74:2 Cindy 17:16 50:22 62:20 63:24 circumstance 32:14 circumstances 3:15 12:25 68:8 clarification 64:2 clarify 27:6 32:11,19 33:5 34:11 65:3 66:23 70:6 clear 5:16 close 11:9,24 coach 59:7,9,10 coaching 67:4 college 10:10 12:20, 21 13:7 15:23 17:20 18:1,13 22:1,17 23:11,21 49:2 colleges 15:25 60:19 comfortable 22:11 command 12:9 commission 73:23 common 59:5 60:2 compensation 18:6 24:1,4
C		
Caitlyn 74:3,24 call 62:20 71:5 called 3:2 Calls 53:4 cancer 19:21 20:1,13, 21 32:6,7,16,22 33:1 44:13,25 cards 41:14		

B

back 12:19 32:18 55:4
 61:1,18 70:18

Lucinda Allen
December 03, 2019

3

complain 37:24 39:16, 21 40:1 41:6,10,19 42:12,17 51:25 53:9 59:17 71:3 complained 42:8 50:4 69:15,18 complaining 51:20 complaint 7:24 8:11 52:14 complaints 53:21 54:9,12 56:15 57:21 58:7,11 complete 28:23 completed 45:3 comply 41:23 concentrate 20:9 concern 43:20,23 45:19 46:7,12 concerned 47:5 concerns 38:12,17,18, 21,24 39:2,5,11 40:8,13,18 43:8,14, 16,18 45:14 48:14 49:14,19 50:24 57:4, 7 61:25 64:14 70:1 confidence 9:14 48:2 conjecture 37:6 considered 12:9 51:11 constitutes 74:11 consult 68:23 continued 61:14 contributors 11:19 12:1 conversation 8:9 19:11,14 46:6 54:2 58:13 62:21,24 63:1 conversations 52:11 copied 63:20 70:11, 14,23 71:19 copy 17:9 Cornell 3:10 10:6,7, 13,19,20 11:1,2,12 17:25 24:4 25:23 26:4 27:1 29:16 31:16 56:7 61:15,22 71:13 corporation 4:10 correct 10:23,24 11:17 17:17,21,22 21:10 23:17,22,23 36:12,17 53:17 56:25	correction 73:9 corrections 73:8 correspondence 71:19 counsel 9:19 50:7 74:18,20 Counselor 22:4 COUNTY 73:4 74:2 couple 3:8 8:23 26:12 70:18 court 5:2 8:10 cover 21:25 22:16 create 16:8 current 10:7,17	departure 60:17,25 depends 49:1 deposed 3:16,19 4:21 7:16 deposition 4:19,24 6:22 7:11,21 26:24 73:6 74:4,7,11,15 description 27:3 75:16 descriptions 16:8 designation 26:16 detailed 35:20 develop 66:20 67:3 developed 48:21,23 49:15 developing 43:16 45:14 52:9 60:3 developmental 52:11 diagnosed 19:21 diagnosis 20:1,22 differentiation 16:11 difficult 5:16 43:21 digital 4:10 direct 11:25 24:10 55:18 directly 11:19 24:8 25:12 39:10 74:21 director 10:8,21 disability 54:23 disbanded 60:18,21 disbanding 60:10 disbandment 61:13 disclosed 20:2 discriminated 71:13 discriminating 54:17 discrimination 4:6, 11,12,13 discuss 14:4,7 18:3,6 23:25 27:24 28:14 29:1,12,23 39:5,11 45:18 47:7,17 48:13 49:8 59:1 65:8,11 69:5 discussed 8:17 19:1, 14 24:3 31:23 40:7 64:25 discussing 65:15,19, 22 discussion 13:2,4 15:11,12,17 17:23
D		

Lucinda Allen
December 03, 2019

4

18:9 19:3 31:14
discussions 27:16,20
 28:7 31:18 32:2
 57:20
doctor 29:9 33:22
doctor's 28:12
document 26:20,22
 27:14 48:8 62:12
 63:13,14
documentation 38:15
documents 7:13 8:20,
 22 26:13
Doxey 17:13,15 18:10
 19:9,14 20:19,21
 54:2,4 56:14,25
 57:2,6,20 58:10,23
 59:20,25 69:24
draft 36:23
drafted 37:3,11,15
duly 3:3 74:5

E

e-mail 9:5,8,11,13
 48:1,5,24 49:11
 50:17,18,21 51:2,19
 62:15 63:17,20,23
 64:8,20,23 70:12,22,
 23 71:5 75:17,18,19
e-mails 8:23 9:2,18
 50:20 70:12
earlier 47:25
earn 9:23
earned 9:25
easier 17:1
easy 37:23
education 9:21
effective 27:8,10
 31:1 35:2 36:11,15
 41:1
elaborate 55:15 57:6
employed 10:3,5 21:8
 25:4
employee 18:14,18,19
 20:12 24:25 33:12
 59:6 60:3 74:18,19
employees 11:21 12:1,
 4,5,6 14:25 15:19
 24:14,15
employment 21:1 67:21

end 27:9 28:16,23
 29:3 30:2 34:3,23
 35:6,12,18,22 36:5
 42:13
ends 68:4,12
engaging 53:16
Engineering 10:9,10
enter 26:3
entered 26:6,10 33:1,
 6 34:17
entire 67:21
entry 43:5
environment 50:4
 53:21
error 48:12
errors 47:2,16,17,23
events 52:6
eventually 14:12
Examination 3:5 75:3
examined 3:3
examples 55:23 64:2
excess 67:2
excessive 43:18,24
 67:2
excited 45:9
excuse 34:1 39:20
 66:6
exhibit 17:2,5 26:14,
 24 29:20 30:23 31:4,
 10 32:12 33:15 34:2,
 18 35:2,4,10,15,22
 36:1,2,6,10,13,14
 37:3,11,14 38:3 40:3
 41:1,3 50:9,10,12,15
 62:6,8,10 63:7,9
exhibit-wise 30:12
exhibits 30:7,21
expires 73:23
exploratory 13:2,4
 14:5 15:11 17:23
 19:24,25
express 70:22 71:4,
 11,18
extent 20:16 22:10,
 19,22 38:10 43:11
 48:9 71:15

F

face-to-face 70:16

71:4
fact 21:5 24:5
fair 7:20,23
fall 12:24
familiar 12:12 22:7
family 16:2 44:16
 68:3,11
February 27:2,8,10
 37:23 38:1,7 39:15
 67:11
feel 48:20,22
feeling 59:7
felt 44:15,16 55:12,
 17,24 56:4,6 69:6
 71:6,13
figure 16:3 60:6
figuring 23:7
filed 7:25
fill 14:8 34:5 36:9
 44:3
financially 74:20
fine 26:19
finish 5:12,14 8:6
finished 32:21 33:1
 51:7 68:11
fitness 6:13
flex 26:3 30:25 31:6,
 15,19 32:8 33:15
 34:8,18 37:12,22
 38:1 40:2 56:11 71:7
flexible 25:16,19,24
 27:1,17 35:6,11,18
 36:20 41:7 42:13
 65:11,22 66:10,15,19
 67:1
focus 37:21
Focussing 23:1
follow-up 28:12 29:9
followup 45:5 64:9
form 13:12 18:20
 20:7,15 22:3 27:4
 33:9,17 38:9 43:10
 44:8 46:19 48:7
 52:16 53:4 54:19,25
 61:16 68:18 71:12,14
formal 15:9
formed 12:20,22,23
 13:5 14:6 15:24
 16:16
foundation 22:4

Lucinda Allen
December 03, 2019

5

frame 14:18 32:15
 33:4
frankly 18:12
Friday 63:25 64:9,17
 65:7,12
front 48:8
full 32:18 47:5 55:8
fully 45:10 47:1
functions 60:18

G

Gabrielle 3:9
gave 44:11
geared 57:15
general 14:17
generally 21:15 45:7
 54:11,13
give 11:6 14:17 55:22
 65:2 67:17,19,23
giving 54:23 69:4
good 3:7 49:23
ground 4:24
group 14:6 16:2,3
 19:2,5 22:21 23:4,5,
 8,10 25:2 43:22
 46:13 49:15,23 60:6,
 7,11,16,21,23,25
 61:9,14 66:22
grouped 34:13
growing 49:14
guess 40:17 57:12
guessing 37:7
guidelines 4:25

H

hand 17:1
handed 50:11 62:7
 63:8
handle 9:15 47:1
 49:18
handling 18:13,16
happen 59:23
happened 57:17 60:16,
 20 63:16 64:17 65:6,
 7
happy 6:3,6
hard 67:3

health 20:10 50:5,25
 51:15,22,23
hear 56:5
heard 13:20,24
hearing 56:3
held 10:18,25 11:12
hereto 73:9
higher 12:9
highest 9:21
home 30:1 42:9
hoping 65:2
Hotel 11:14,22 24:16
hourly 33:12
hours 7:8 38:13
 41:16,17 42:23 43:5
house 44:20 67:25
 68:10
HR 13:2,21 18:12,16,
 17 19:4 40:13 50:7
 56:5 58:7,11 59:15,
 17
human 13:13,23 53:16,
 20 54:5,9,12 56:10,
 15,20,24 57:3,21
 58:4,16,19,24 59:2

I

IDENTIFICATION 50:10
 62:6 63:7
identified 17:11
 26:25
identify 30:13,24
 31:6
II 14:21,23
immediately 49:13
impact 50:25
improve 64:3
inadvertently 9:5
incite 49:7
include 29:3
independently 47:1
indicating 29:15,19
 55:4,9
indirectly 74:21
individual 11:19,25
 19:2 58:1 61:3
individuals 15:24
 23:9 49:6

informal 15:10
information 3:13 4:10
 8:18 47:5 65:3
inhibit 6:14,17
initial 33:15
institute 9:24 11:21
intend 9:8
intended 9:10 13:8,9
interested 74:20
interpret 49:3
interpretation 52:6
 66:2
interview 15:6,9,10
interviewing 14:20
issue 24:14 52:13
issues 38:5 47:7 49:8

J

January 21:23
job 9:15 10:18 15:3,7
 16:2 18:10 41:15
 43:21 61:4,6 69:9
jobs 15:5 16:9
join 14:12
joined 16:19
Julie 56:14 58:1
July 63:21 64:6
 65:14,18,21 75:19
June 62:17,25 75:18

K

Kathryn 17:13
Kathy 19:9 54:2
 56:14,24
keeping 16:4 26:15
kind 70:17
knew 20:12 28:10,11
 44:1 47:15
knowing 18:15
knowledge 13:9 15:1
 21:6 33:2 45:1 68:17
 70:21 71:3

L

lack 38:23 39:6,7
 48:1 67:3

Lucinda Allen
December 03, 2019

6

laid 60:22 61:2,7,9,
21 71:25
land 68:1,10
lawsuit 3:10,13,15
4:8,14,17
lay 11:11 22:4
learned 56:23
learning 58:10
leave 21:10,13,20,24
22:6,15 26:3 43:19
44:23 55:13,17,24
60:12
leaving 60:10
letter 17:11,16
20:20,24
letters 17:9
letting 16:5
level 9:21 15:2,3,20,
22 16:14 30:3
levels 16:1,12
liking 54:14
limit 10:21 37:17
limited 39:14
Lindsay 24:22,24
25:6,9,14 27:22,25
28:7,9,14 29:2,12,23
31:19,24 32:2 37:25
38:6,20,24 39:12,17,
22 40:1,7 41:6,10,19
42:9,12,17 43:8,14
44:11 45:21,22 46:5
47:20,22 52:1,22
53:9 54:17,23 55:3,
14,16,18,22 56:4,14
57:5,8 58:18 59:1,
10,12,14 61:12,14
62:16,19,25 63:3,20
69:24 71:6,20
Lindsay's 39:5 43:23
45:14,19 46:7,12
69:25
literally 70:9
long 7:6 10:11,13,25
15:12 25:8
longer 34:21
lot 23:6 47:2 49:1
63:25 64:7 67:18
70:11
lots 53:6
Lucinda 73:12 75:4

M

made 67:3
make 5:1,10 37:23
49:16 66:1,4,15 69:7
making 63:25 64:7
manage 30:3
managed 52:7,15
manager 11:20 25:1
managers 11:17,25
12:3,6 42:21
March 10:15
mark 50:8 62:5
marked 17:2 26:13,14
30:6 50:10,12 62:6,7
63:7,8
Master's 9:22 10:1
maximum 11:23
meant 6:11 9:12 48:1
mechanisms 42:6
medical 21:10,12,20,
24 22:15 26:2 43:19,
25 44:2 45:20 46:8
55:13,17,24
medications 6:14,17
meet 6:25 12:14,25
13:3,14,23 14:1
meeting 7:3,6,9 8:17,
19 19:24 20:1 49:24,
25 56:9,13 64:5,16,
19 65:6,7,12 69:22,
23 70:2,11
meetings 7:1 56:20
60:8
members 46:13
mentioned 52:18 53:8,
15 63:25 64:13 65:1
met 3:7 6:23 8:12
9:18 12:18 13:18
14:3 63:24
midway 28:19
minute 23:15
minutes 3:8 15:14
mistakes 64:1,7 65:2
66:1,5,16 69:7
month 6:24 7:9 8:12
9:19 53:25
Move 42:1

moved 15:1,2,4 23:9
61:4

N

named 58:1
nature 54:8,11
nay 69:2
necessarily 54:14
needed 20:9 29:25
32:9,10 33:13 44:16,
17
needing 30:1
non-exempt 33:12
non-leave 44:23
non-medical 44:7
67:2,7,12,15 68:8,25
69:6
non-responsive 42:2
normal 8:9 16:6
NOTARY 73:20
notes 36:10,15
notice 74:16
notification 29:11,
13,24,25 38:13,21
39:6 40:9
notify 18:19
November 60:13
Number 32:13 75:16

O

Object 13:12 18:20
20:7,15 22:3 27:4
33:9,17 38:9 43:10
44:8 46:19 48:7
52:16 53:4 54:19,25
61:16 68:18 71:14
objection 16:21 19:16
22:18 34:9 46:23
occurred 64:20
October 21:20 31:2,8
36:12,16
odds 68:4,12
offend 6:12
offer 17:11 18:10
20:20,24 23:17
offering 17:19
office 14:2

Lucinda Allen
December 03, 2019

7

ongoing 4:14
opinion 46:15,22 64:6
opinions 53:6
opportunity 44:17
opposed 9:6
organization 23:8
 24:12 28:10
organizational 16:7
oversight 12:5 13:10
overtime 29:21

P

pages 28:24 75:3
paragraph 29:22
part 34:21 45:10
 66:12
parties 41:22 74:19
party 3:24 9:7
Payne 3:9 7:15 9:6
 12:12,14 13:1,14,20,
 24 14:1,4,12,21
 15:6,17 16:14,19
 17:12,20,24 18:11
 19:4,16,19 21:9,24
 22:14 23:5,17,20
 24:6 25:3,8,12 26:1,
 2 27:18 29:25 30:25
 31:7,15 34:7,17,25
 35:5,11,17 36:19
 37:24 38:6 39:7,16,
 21 40:1,9,22 41:5,
 10,19 42:8,12,17
 43:9,24 44:6,24
 45:13,19,25 46:2,6,
 11 47:8,23 50:1,4,21
 51:10,14,25 52:14
 53:16,20 54:5,16,22
 55:24 56:4,6,10,14,
 21,24 57:3,4 58:15,
 19,24 59:2,15,18
 60:20 61:12,21 62:16
 63:1,18,23 64:5
 65:25 67:6,12,15
 69:6,14 70:9,21
 71:2,11,18,25
Payne's 3:15 7:25
 8:11 20:21 21:1
 26:24 31:19,23 32:3
 33:15 46:16 47:11
 48:2,14 54:9 56:15
 57:7,20 58:7,10

59:21,25 61:25 65:9,
 15,19,22 66:3,14,19
 68:24 70:1
PENCE 8:5 13:12 16:21
 18:20 20:7,15 22:3,
 18 26:15,18 27:4
 30:10,15,18 32:11
 33:9,17 34:9 38:9
 43:10 44:8 46:19,23
 47:12 48:7 52:16
 53:4,11 54:19,25
 61:16 66:6,9 67:8
 68:18 71:14 72:6
pending 6:7
people 5:17 22:24
 23:2,3 52:22 60:24
 61:4,6,8
perfectly 57:18
perform 49:9
performance 46:16
 47:7 48:14 59:21,25
 62:1 64:15 69:9 70:1
period 22:6 24:10,19
 37:21 38:7 39:14,20,
 25 40:19,22 41:5,9,
 18 42:3,8,11,16 43:6
 47:12,13 53:11,24
 57:15 66:7,11 67:9,
 20,22 68:16
periods 37:19
permitted 42:22
phone 71:5
place 19:11 21:25
 32:9 74:16
placing 18:17
plaintiff 4:2,4
Plaintiff's 50:12
plan 45:4
planning 60:8
play 13:16
point 5:20 11:18,24
 23:7,24 41:13 42:5
 49:17 50:3 53:13
 66:8
policy 25:23 29:16
 42:24 43:2,3
portion 28:13
posed 5:23
position 10:7 11:13
 14:8,21,23 16:8
 17:20 18:3

positions 10:18,20
 11:21 24:13
post 55:8,10
potential 13:17
pre-approval 38:22
 40:8 41:24 53:2
 54:15
pre-approved 38:15
preface 8:15
prepare 6:21 7:11
present 15:16 43:20
pretty 35:20
previously 17:2,11
 23:11 26:13,14 30:6
 52:18
prior 11:13 13:18,22
 19:19 20:20 26:24
 29:10,13,24,25 60:9
 65:14,18,21
privileged 8:17
procedure 41:17
produced 47:15
project 24:16 47:1
 61:19
proper 56:6
providing 71:20
PUBLIC 73:20
purchasing 68:10
put 18:14 32:7 44:4,
 17 61:21

Q

question 5:13,15,21,
 23 6:7,8 8:6 20:16
 22:8,11,13 38:10
 42:3,6 43:11 49:4
 61:2 71:15
questions 3:12 5:3
 6:11,15,18 37:18
 47:4 52:22,23 57:14
 70:18 72:5
quickly 24:11
quote 55:18

R

rang 32:15,21 44:12,
 13,24 55:4 68:2

Lucinda Allen
December 03, 2019

rankings	48:25 49:1,9	released	45:10 55:7	respect	29:24 43:23
reaching	13:23 54:5	remain	21:8	responded	58:13
57:3		remainder	21:22	response	5:8 20:5
read	32:10 73:6	remained	16:6	53:7 58:10 59:11	
reads	50:22	remaining	16:7 60:22,	responses	5:4,11 49:6
reason	6:3	24 61:4,6		responsibilities	48:19
reasons	68:25 69:7	remember	21:14 32:5	rest	43:22
recall	3:14,20,21	39:1 48:3 53:22,23		restate	54:10
7:7,17 9:1,9,17,20,		54:3 57:10,18,19		returned	26:2
25 11:4 12:15,16,17,		59:4 70:12		review	7:13 8:14,20,
22 14:11,15,16,20,22		reminder	64:1	22 17:3 30:5,8,20	
15:8,10,13,15 16:14,		remote	28:13,16,23	31:1,9 32:5 33:11	
17,19,23 17:8 18:2,		29:4,6,8 32:8 33:7,	36:12,16,25 41:14		
5,8,12 19:3,10,12,		13	50:13,14 62:8,10		
13,15 20:23 21:12,		remotely	25:25 39:18	63:10	
15,18 22:10 24:9,20		41:20	reviewed	8:3,11 9:2,	
25:10,13 26:6,8,9,		renewal	31:15,19,23	18 47:25 52:19	
11,21 27:13,15 28:1,		32:3,20	reviewing	42:21	
5 31:3,12,17,22 32:1		renewed	34:8 35:1		
36:21 37:2 38:4		repeat	5:22 22:13		
39:4,13,19,23 40:6		35:13	repetitive	37:18	
41:8,13 42:10,15,19		rephrase	13:22 23:20		
48:9 50:6 51:2,3,9,		replaced	60:14,15		
12,14,20 52:2 53:14,		report	24:7,10 25:5		
24 54:4,21 56:8,9,		28:13 39:10 47:9	28:13 39:10 47:9		
13,22 57:22 58:8,12,		reported	11:19 24:19		
14,21,23 59:11,19		25:9,12	25:9,12		
62:2,24 63:15 64:5		reporter	5:2,17 8:10		
65:10,13,15,18,22		reporting	25:14 52:24		
69:1,14,17,23 70:2,3		reports	11:23,25		
71:1,8,22		47:15	represent	3:9 21:19	
receiving	51:2,3		26:23	26:23	
receptive	52:12	represented	22:5	represent	3:9 21:19
recognize	50:17	request	29:21 44:3	26:23	
63:13,14		52:9	52:9	represent	3:9 21:19
recollection	22:15	requested	42:25 68:24	26:23	
record	3:8 23:16	required	52:20	represent	3:9 21:19
29:17 30:12,24 31:5		requirement	41:25	represent	3:9 21:19
32:20 69:13 74:11		rescinded	34:7	represent	3:9 21:19
recorded	74:7	reserve	72:7	represent	3:9 21:19
redirect	72:7	residual	16:6	represent	3:9 21:19
reduced	74:8	resigned	61:5	represent	3:9 21:19
reentry	28:10	resources	13:13,23	represent	3:9 21:19
referencing	64:17	53:17,20 54:6,9,12		represent	3:9 21:19
65:8		56:10,16,21,24 57:3,		represent	3:9 21:19
referring	32:12 43:4	21 58:4,16,19,24		represent	3:9 21:19
63:4		59:3		represent	3:9 21:19
related	44:20 46:15			represent	3:9 21:19
48:24				represent	3:9 21:19
relative	74:18,19			represent	3:9 21:19
release	55:7,8			represent	3:9 21:19

Lucinda Allen
December 03, 2019

9

series 50:20
serving 23:25
set 44:5
sexual 4:13
shape 71:12
share 19:23
shared 19:22
Shaw 9:10,12 48:1,6,
 13
Shaylor 74:3,24
sheet 73:9
short 24:19
show 26:12 30:4
Showing 30:6
sign 41:15,16 72:7
signature 31:7 35:4,
 10,15 40:21 41:2
signed 36:19 37:1
significant 66:11
similar 4:23
situation 59:6
skills 9:14 43:17
 45:15 48:2 66:20
smoothly 5:1
spanning 66:10
speak 13:14 16:18
 19:7 20:19,21 45:13,
 24 46:3,11 57:19
 58:6,15,18 59:20,24
 61:24
speaking 5:17 51:9
 64:9
special 32:14
specific 11:4,6
 12:15,16 14:8,16
 18:3 29:24 39:1
 48:21,24 52:13
 53:22,23 64:8
specifically 17:24
 26:21 29:5 34:24
 35:19 38:20 40:10
 41:12 42:15,25 45:6,
 8 52:2 54:10 56:19
 60:1 65:10 69:1
 70:12 71:10
specifics 9:20 20:2
 25:10 36:21 40:14
 50:6 54:3 55:23
 56:22 57:11 58:12,14
 59:4 67:17

speculation 53:5
speed 43:22 46:13
 47:6 52:10 60:4
spend 44:14
split 21:2,5,17
spoke 46:2,3 47:22
 51:12 59:2,15
spring 12:24
staff 38:16
standard 28:16,22
 29:3 32:8 33:7 34:3,
 22 35:22 36:5 41:17
start 10:17 11:5 29:3
 30:2 34:3,22 35:6,
 12,18,22 36:5 42:13
started 24:6
starting 19:17 20:13
starts 17:15
STATE 73:3 74:1
statement 65:3
states 20:25
stating 51:15
stenotype 74:8
strategic 60:8
strategically 49:5
stream 64:23
strike 4:16 14:3
 16:18 20:19 21:8
 26:1 35:1 42:1 47:10
 53:8 55:15 59:24
submitted 71:25
submitting 48:25
SUBSCRIBED 73:15
substance 9:3,17 28:6
 32:1
suing 4:7
suit 4:5,6,20
summarizing 55:20,21
summer 69:25
supervise 47:10
supervised 11:15,16,
 17,18,20 12:3
supervising 42:20
supervision 74:9
supervisor 38:16
 47:19 52:7
supervisors 41:14,16
supervisory 10:22,25
 11:5,11

support 24:17 28:9
supportive 33:23
supposed 21:16 22:1,
 16 41:14
surrounding 3:15
sworn 3:3 73:15 74:5

T

taking 5:3 43:24
 45:19 46:8 52:8,21
 68:10 70:8 74:4
talk 8:8 9:16 17:25
 29:7 43:1 49:13,22
 50:23 59:5 60:2,9
 62:20
talked 14:5 29:6,7,10
 60:4 69:4
talking 32:24 34:9
 36:1 38:3 60:10
Tammy 24:21,24,25
 25:5 38:19 47:19
 55:12 57:5 61:12
 62:16 68:22,23
task 9:15 16:1 48:19,
 21
tasks 23:4,6 48:22
 49:18
teaching 11:16
team 45:11 50:24
 51:11,16,21
Technology 9:24
temporary 61:18
ten 11:9,25 15:14
terms 18:6 41:23 49:2
 52:24
testified 3:4 71:23
testify 3:13 6:13
 74:5
testimony 74:12
thing 70:5
things 16:4 22:20,23
 23:10 43:18 44:20
 47:3 49:5 52:3
 67:18,23 69:3 70:14
thinking 70:16
thought 13:16 16:2,23
 47:3 49:16
time 3:18 4:16 5:20
 6:2,6 8:3,10 10:19
 11:18,24 13:8 14:7,

Lucinda Allen
December 03, 2019

10

17 17:3 21:1,5,9,17,
 23 22:6,14 23:7,24
 24:20 25:3,11 28:16,
 22,23 29:4 30:2,5,7
 32:15,18,20 33:4
 34:3,15,23 35:22
 36:5 37:19,21 38:7
 39:14,20,25 40:18,22
 41:5,9,14,18 42:3,5,
 7,11,14,16 43:5,6,
 18,24 44:3,6,10,11,
 12,18,19,21,22 45:20
 46:8 47:12,13 50:3,
 23 52:8,9,21 53:2,3,
 10,11,24 54:13 55:14
 57:5,15 60:25 61:9,
 15 62:8 63:9 66:7,
 11,13 67:2,7,8,12,
 15,19,20,22,24 68:8,
 15,24 74:15
timecard 39:22 41:11
 42:18 52:19 65:9,15,
 19
timecards 42:21
times 25:13,24 27:24
 28:3,11 31:22 35:7,
 12,18 47:4 57:19,23
 59:24 68:16
today 3:11 4:25 6:5,
 13,15,19 7:10 8:10
 50:23 70:19
today's 6:22
told 7:17 20:8 45:23,
 24 49:14 54:5 55:12,
 16 57:4 58:23 64:19
 68:7
top 36:10,14 50:20
 63:20
transcript 5:9,16
 7:21
translate 5:9
treatment 20:4,13,22
 44:14 45:4
treatments 32:7,16,22
 33:2,21 44:25 68:12
trial 4:17
trip 68:1,2,11
true 72:2 73:7 74:11
truth 74:6,7
truthfully 6:18
Tuesday 62:16

turmoil 50:24 51:11
turn 31:8
type 4:5 40:18
types 69:3
typewriting 74:8

U

uh-huh 5:6,8 15:21
 17:18 21:4 27:12
 28:25 32:23 34:20
 36:18 45:2 46:1
 51:1,8 53:18 57:16
 62:23 63:19 64:18
 68:9,14
ultimately 61:9
uncomfortable 59:7
uncommon 33:13,16
uncustomary 70:14
undergoing 20:13
 33:21
understand 5:21 6:15
 20:16 36:22 38:10
 42:4 43:11 51:18
 57:14 64:3 70:17
 71:15
understanding 25:19,
 21 52:25 53:1 55:6
understands 22:11
understood 5:24
University 3:11 10:6,
 14,19
unpaid 44:19
unrelated 43:19,25
 44:1 45:20 46:8

V

vacation 44:15
Valerie 6:23 7:1
 8:13,19
verbal 5:5
verbally 70:10,16,22
 71:4
Vinci 3:6,9 8:4 23:14
 26:17,19 29:17
 30:13,17 34:16 42:1
 50:8 62:5 66:8,12
 69:12 72:4 75:4

W

wait 8:5 66:23
walked 49:20,24 64:11
wanted 28:9 49:16
 68:1,2,4
Weaver 56:15 58:2,6
 61:24 69:24
week 44:15
wished 20:8
withdraw 8:14
woman 24:21
work 21:25 22:16
 24:17 25:16,20 26:3
 27:1,17,24 28:7,13,
 17,23 29:4,6,8,21
 30:1,25 31:6,20
 32:3,8,18,25 33:7,15
 34:8 35:3,4,6,12,18
 36:20,23 37:4,12,25
 39:18 41:7,20 42:9
 43:17 45:10 46:16
 47:2,11,14 50:4
 52:24 53:21 55:7
 56:11 58:4 59:21,25
 61:14,22,25 64:25
 65:11,23,25 66:4,10,
 15,19,25 67:1,4
 69:16,19 70:1,24
 71:7,21
worked 10:13 12:1
 41:16,17 42:23 43:5
working 25:24 33:13
 38:13,14 51:16,20
 52:1 57:5,7
would've 60:2
write 64:24
writes 62:20 63:24
writing 41:24
written 29:14,15,18
wrong 33:20

Y

yay 69:2
year 3:21,23 9:25
 11:4 12:17 53:25
years 10:12,15 11:9
 57:17

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11

<p>yell 49:21 yelled 49:19 yelling 64:10 YORK 73:3 74:1</p>	
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